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# Democratic deliberation in the Athenian Assembly: procedures and behaviours towards legitimacy

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## Abstract:

The article examines the deliberative credentials of Athenian democracy. Much scholarship has investigated ancient Athens as a successful (or less successful) example of participative democracy and has stressed the importance of collective deliberation to its political system. Building on this scholarship, the article explores whether the Athenians subscribed to, and implemented in their institutions of political decision-making, deliberative ideals and a commitment to consensus compatible with those central to modern literature on deliberative democracy in political theory. After a survey of relevant studies of deliberative vis-à-vis participative democracy, with a discussion of the pitfalls of plebiscitary forms of democracy to which ancient direct democracy is often compared, the article discusses the deliberative setup of Athenian political decision-making, concentrating on Assembly procedures; the ideas that speakers and the public explicitly upheld in their conduct in the Assembly, investigated through a close reading of Assembly accounts and normative statements in the orators (particularly in Demosthenes *Prooimia*); finally it examines an example of protracted Assembly debate—that on the Sicilian expedition—to make the case that Athenian political decision-making strived to fulfil deliberative ideal for the purpose of creating legitimacy, whether or not the outcome of democratic deliberation turned out to be effective policy choices.

## Subheadings:

### Introduction

#### 1. Deliberative procedures [level 1]

- 2. Deliberative behaviours [level 1]
- 3. Athenian democratic deliberation in practice [level 1]
- 3.1 The debate(s) on the Sicilian expedition [level 2]

Conclusions

## Introduction

There is no doubt in modern historical scholarship and political theory that ancient Athens (and Greek democracy more generally) is a prominent case (for many the most prominent), of direct democracy, one that achieved unparalleled levels of popular participation in the running of the state.<sup>1</sup> In the fourth century BCE, out of ca. 30,000 citizens, no less than 6,000 (and often more) met at least forty times a year on the Pnyx to make decisions for their community. In addition, 500 Athenians were selected by lot each year to serve in the Council, which was convened every day (except on festival days) and dealt with all public matters, preparing also the agenda for the Assembly. Moreover, 6,000 people every year were selected by lot for the lawcourts, and hundreds of Athenians (mostly also selected by lot) served as public officials. Athens, quite simply, could not have worked without very high levels of popular participation in the workings of the *polis*. Similar considerations are equally valid for most Greek democracies—a recognisable form of *demokratia* became, from the late fourth century, the standard political

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<sup>1</sup> See for a recent restatement of Athens' special status as the 'first' and 'true' democracy Paul Cartledge, *Democracy: A Life* (Oxford: Oxford University Press, 2016). For more pluralistic (and comparative) accounts of the emergence of democratic forms in various civilizations see recently Egon Flaig, *Die Mehrheitsentscheidung. Entstehung und kulturelle Dynamik* (Paderborn: Schöningh, 2013), and e.g. Marcel Detienne, "Des pratiques d'assemblée aux formes du politique," in *Qui veut prendre la parole*, ed. Marcel Detienne (Paris: Seuil, 2003) 13-30; *The Greeks and Us. A Comparative Anthropology of Ancient Greece* (Cambridge: Polity 2007), particularly 101-25; and David Graeber, *The Democracy Project. A History, A Crisis, A Movement* (New York: Penguin, 2013) ch. 3.

form for most of the Greek world, following what John Ma has termed ‘the great convergence’ towards democratic political structures.<sup>2</sup> Accordingly, Athens has been rightly considered an important (sometimes the most important) example of direct democracy and of participatory democracy.<sup>3</sup>

Its credentials as an example of deliberative democracy—a polity practising high levels of democratic deliberation and constructing its decision-making institutions and the legitimacy of their decisions primarily on democratic deliberation—are however less firmly established.<sup>4</sup> On the one hand, the “deliberative” nature of Athenian democracy is assumed by many stock translations of expressions such as *demegoria* (a speech for a political Assembly)—normally translated as “deliberative speech”—and *rhetorike demegorike* or *symbolleutike* (the kind of rhetoric appropriate for political assemblies)—normally translated as “deliberative rhetoric.”<sup>5</sup> And, accordingly, some scholars have likened the Athenian democratic system to modern ideals of deliberative democracy—Ryan Balot, for instance, states that *parrhesia* produced “true democratic deliberation—a public conversation in which ideas are floated freely, objections and dissent are confidently and respectfully aired, further revisions and refinement

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<sup>2</sup> John Ma, “Whatever happened to Athens? Thoughts on the Great Convergence and beyond,” *The Hellenistic Reception of Classical Athenian Democracy and Political Thought*, eds. Mirko Canevaro and Benjamin Gray (Oxford: Oxford University Press, 2018) 278-97.

<sup>3</sup> See e.g. M. H. Hansen, *The Tradition of Ancient Greek Democracy and its Importance for Modern Democracy* (Copenhagen: The Royal Danish Academy of Sciences and Letters, 2005) 50-6.

<sup>4</sup> For influential collections on deliberative democracy see James Bohman and William Rehg (eds), *Deliberative Democracy: Essays on Reason and Politics* (Cambridge, MA: Harvard University Press, 1997); Jon Elster, *Deliberative Democracy* (Cambridge: Cambridge University Press, 1998); Amy Gutman and Dennis Thompson, *Why Deliberative Democracy?* (Princeton: Princeton University Press, 2004). For general discussions see Frank Cunningham, *Theories of Democracy: A Critical Introduction* (London: Routledge, 2002) 163-83; David Held, *Models of Democracy* (Palo Alto: Stanford University Press, 2006, 3<sup>rd</sup> ed.) 231-57. For recent reflections on the development of the study of deliberative democracy see e.g. Jane Mansbridge et al., “A systemic approach to deliberative democracy,” in *Deliberative Systems—Deliberative Democracy at the Large Scale*, eds John Parkinson and Jane Mansbridge (Cambridge: Cambridge University Press 2012) 2-26; David Owen and Graham Smith, “Survey article: deliberation, democracy, and the Systemic Turn,” *Journal of Political Philosophy* 23/2 (2015) 213–234; Elstub, Ercan and Mendonça, “Editorial introduction: the fourth generation of deliberative democracy,” *Critical Policy Studies* 10/2 (2016) 139-15; Nicole Curato et al., “Twelve key findings in deliberative democracy research,” *Daedalus* Summer 2017 (2017) 28-38.

<sup>5</sup> See Harvey Yunis, *Taming Democracy* (Ithaca, NY: Cornell University Press, 1996) 16 n. 24 for the emergence of these translations, and Daniela Cammack, “Was Classical Athens a deliberative democracy?”, *Journal of Political Philosophy* (forthcoming) for fair criticism of these translations.

of different opinions can take place, and a collectively supported decision issues in the end. [...] in these terms Athenian democratic deliberation sounds strikingly similar to the public conversations advocated by modern theorists of deliberative democracy.” Noémie Villacèque has argued for the link, in Athens, between deliberation and theatricality, focusing particularly on audience reaction and *thorybos*. Most prominently, Josiah Ober has made a case for the Athenian credentials as a remarkably sophisticated example of epistemic democracy by stressing the importance of democratic deliberation for the production and aggregation of dispersed knowledge—his model depends on strong and thorough deliberation between a multiplicity of actors in a remarkably participative and well-networked polity.<sup>6</sup>

On the other hand, consciously stressing the “deliberative” nature of Athenian democracy (beyond the imprecise and unreflected usages of “deliberative” in stock translations), remains rather rare, and even rarer is the effort actually to engage with modern theories and analyses of deliberative democracy. The standard picture of Athenian democracy painted by scholars is in fact one of a heavily adversarial system of decision-making in which prominent politicians delivered their speeches on the stage of the Assembly and the different opinions were then aggregated through majority rule. M.H. Hansen most prominently argued that there was no “exchange of views” in the Assembly, but rather “series of speeches of varying length” by “a small group of half- or fully-professional orators.”<sup>7</sup> And more recently, in a series of

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<sup>6</sup> Ryan Balot, *Greek Political Thought* (Oxford: Wiley-Blackwell, 2004) 63-6; Noémie Villacèque, “Chahut et délibération. De la souveraineté populaire dans l'Athènes classique,” *Participations* 3/2 (2012) 49-69; “Θόρυβος τῶν πολλῶν : le spectre du spectacle démocratique,” in *Le Savoir public. La vocation politique du savoir en Grèce ancienne*, ed. Arnaud Macé (Besançon: Presses universitaires de Franche-Comté, 2013) 283-312; *Spectateurs de paroles : délibération démocratique et théâtre à Athènes à l'époque Classique* (Rennes: Presses universitaires de Rennes, 2013); Josiah Ober, *Democracy and Knowledge: Innovation and Learning in Classical Athens* (Princeton: Princeton University Press, 2008) particularly 160-7; and also Arnaud Macé (ed.) *Le Savoir public. La vocation politique du savoir en Grèce ancienne* (Besançon: Presses universitaires de Franche-Comté, 2013) chs. 14-20 for a précis of Ober's main theses with commentary by Charles Girard, Paulin Ismard and Vincent Azoulay, and a response by Ober himself.

<sup>7</sup> M. H. Hansen, *The Athenian Democracy in the Age of Demosthenes* (Oxford: Blackwell, 1991) 142-4. For a discussion of how wide was participation in speaking making proposals in the Assembly see below pp. 000-00, with recent work that has convincingly challenged Hansen's contentions. Hansen's picture of adversarial and aggregative decision-making is similar, despite some differences, with that painted e.g. by Françoise Ruzé, *Délibération et pouvoir dans la cité grecque: de Nestor à Socrate* (Paris: Publications de la Sorbonne, 1997);

stimulating contributions, Daniela Cammack has pushed this line even further, separating sharply *demos* and *rhetoires* and painting the *demos*' deliberation as fully internal; the leaders spoke and the masses voted.<sup>8</sup> The standard model of Athenian democratic decision-making painted by many scholars, then, is more akin to "plebiscitary" democratic decision-making than to modern theorisations of deliberative democracy.<sup>9</sup>

This picture of Athenian democracy is in my opinion misguided, and I believe that we could gain a better understanding of the dynamics of Athenian decision-making, both procedurally and in the norms and values that underpinned the relevant institutions, if we took Athens' deliberative credentials seriously and addressed them openly, also through proper engagement with "deliberative democracy" literature in political theory and political science. This has been prevented by three factors, which have instead fostered an adversarial, aggregative and majoritarian picture of Athenian democratic decision-making. The first is that often the main sources for the nature of, and the ideas behind, the Athenian political system are authors such as Thucydides, Plato and Aristotle, who were heavily critical of *demokratia* and focused their discussions on bad decisions, the ignorance and malice of the *demos*, deception, demagoguery and the pervasiveness of civil strife. These sources offer biased and generally hostile reflections on ancient *demokratia*, and their contentions are often offset by the evidence of the orators and of inscriptions (see Section 2).<sup>10</sup> A different picture emerges if one concentrates primarily on the Attic orators and on the inscriptional record to reconstruct the procedural features of

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<sup>8</sup> See e.g. Daniela Cammack, "Aristotle on the Virtue of the Multitude," *Political Theory* 41 (2013) 175-202; "The Democratic Significance of the Classical Athenian Courts," in *Decline: Decadence, Decay and Decline in History and Society*, ed. W. O'Reilly (Budapest: Central European University Press, forthcoming); "Was Classical Athens," "Deliberation in ancient Greek Assemblies," *Classical Philology* (forthcoming).

<sup>9</sup> See for this distinction Simone Chambers, "Rhetoric and the public sphere: has deliberative democracy abandoned mass democracy?", *Political Theory* 37 (2009) 323-50.

<sup>10</sup> This is a point made at length in Josiah Ober, *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule* (Princeton: Princeton University Press, 1998). E. M. Harris, "Was all criticism of Athenian democracy anti-democratic?", in *Democrazia e anti-democrazia*, ed. Umberto Bultrighini (Alessandria: Edizioni dell'Orso, 2006) 11-24 nuances Ober's analysis by making the point that not all criticism of democracy was destructive, and some of it was in fact democratic and constructive. But the point that some of our key sources are prejudicially inimical to democracy, or at least rather critical of its implementation, stands.

Athenian decision-making and gauge their logics and the preoccupations underpinning their arrangements (as I try to do in Section 1); and on the actual speeches and notes composed by the orators for the Assembly, in order to reconstruct the values, norms and preoccupations underpinning actual Assembly deliberation. The accounts of Assembly meetings found for instance in Thucydides and Xenophon are of course valuable, but should be read against the grain and in the light of what has been established about institutional arrangements and underlying values, as I attempt to do in Section 3.

The second factor is that most ancient historians (followed by political theorists) hold that decision-making in the ancient Greek city-states by and large was governed by majority rule, which was used to aggregate narrow votes. This is a belief that is held as self-evident, and rarely (if ever) discussed. To give only a few authoritative examples, Françoise Ruzé argues that consensus-based decision-making had been by the fifth century replaced by majority rule. P.J. Rhodes states that in the Athenian assembly, when a motion (or more motions) were presented, “the final decision was made by a simple majority.” M. H. Hansen holds that city-state cultures (including ancient Greece) were characterized by “a political decision-making process whereby laws and decrees [...] were often passed by majority votes after a debate in an assembly.” Peter Liddel states that the Athenian way of “solving the problem of how the theory of popular rule might be translated into a legitimate democratic reality” was by “allowing the people to propose or to make decisions by majority vote.” Ryan Balot states that “political debates in Athens were settled by majority vote, full stop.” Philippe Gauthier states that “la plupart des décisions de l’Assemblée démocratique sont prises à la majorité des voix, qui est désormais de règle”; Matt Simonton states that “the Athenian democracy is characterized by narrow votes rather than unanimous ones.” Even Josiah Ober, who has stressed in recent years that Athenian democracy was much more than simple majority rule, still holds that it was also characterized by majority rule. And Egon Flaig, fully convinced that

majority rule is in fact typical of Greek political decision-making, has gone so far as to connect to it phenomena such as material and technical investment and innovation, and even the development of rational reasoning and science.<sup>11</sup> My argument is that this notion is also misguided: although narrow votes occasionally happened, the institutional set-up of the Assembly, as well as its ethos, were geared towards producing consensus, and the evidence suggests that they often (perhaps mostly) succeeded in securing unanimous or quasi-unanimous decisions. The system of decision-making was not set up to aggregate pre-existing and unchangeable preferences, but rather to change preferences through democratic deliberation and lead the *demos* towards consensus.<sup>12</sup>

The third factor is that deliberative democracy theorists and political scientists, despite the occasional nod to Athenian democracy as an early example (sometimes the first example) of deliberative democracy, have long been suspicious of the deliberative credentials of small-

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<sup>11</sup> Françoise Ruzé, “Plethos, aux origines de la majorité politique,” in *Aux origines de l'hellénisme : la Crète et la Grèce. Hommage à Henri van Effenterre* (Paris: Publications de la Sorbonne, 1984) 247-64; Ruzé, *Délibération*; P. J. Rhodes, *A History of the Classical Greek World 478-323 BC* (Oxford: Blackwell, 2010, 2<sup>nd</sup> ed.) 62; M. H. Hansen, *Polis. An Introduction to Ancient Greek City-State* (Oxford: Oxford University Press, 2006) 2, 15; Peter Liddel, “Ancient and modern democracy,” in *A Companion to Greek and Roman Political Thought*, ed. Ryan Balot (Oxford: Blackwell, 2009) 133-48, here p. 140; Balot, *Greek Political Thought* (Oxford: Blackwell, 2006) 55; Matt Simonton, *Classical Greek Oligarchy. A Political History* (Princeton: Princeton University Press, 2017) 126-7 n. 73; Ober, *Democracy*, p. 5; Ober, “The original meaning of democracy: capacity to do things, not majority rule,” *Constellations* 15/1 (2008) 3-9; Philippe Gauthier, “Quorum et participation civique dans les démocraties grecques” in *Philippe Gauthier. Études d'histoire et d'institutions grecques. Choix des écrits*, ed. Denis Rousset (Genève: Droz, 2011) 421-54, here p. 453; Flaig, *Mehrheitsentscheidung*; Alberto Maffi, “Origine et application du principe de majorité dans la Grèce ancienne,” in *Symposion 2011. Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Paris, 7.-10. September 2011)*, eds B. Legras, and G. Thür (Wien: Verlag der österreichischen Akademie der Wissenschaften, 2013) 21-32; “Il principio di maggioranza nella prassi politico-giuridica della Grecia classica e nella critica aristotelica,” in *Legittimazione del potere, autorità della legge: un dibattito antico*, ed. F. De Luise (Trento: Università degli Studi di Trento, 2016) 109-52.

<sup>12</sup> I make a wider case (also relying on extra-Athenian evidence) that consensus was pervasive in the Greek city-states in Mirko Canevaro, “Majority rule vs. consensus: the practice of democratic deliberation in the Greek *poleis*,” in *Ancient Greek History and the Contemporary Social Sciences*, eds Mirko Canevaro et al. (Edinburgh: Edinburgh University Press, 2018). Partial exceptions to the consensus on the aggregative and majoritarian nature of Athenian democracy are Domenico Musti, *Demokratia. Origini di una idea* (Roma-Bari: Laterza, 1995), who believes that unanimity was an important feature of Athenian decision-making while at the same time accepting that majority rule was the norm; and Jane Mansbridge, *Beyond Adversary Democracy* (Chicago: University of Chicago Press, 1980) 13-14, who in a work on modern consensual forms of democracy accepts that the normal form of decision-making in Greek politics was by majority rule, but then (n. 16 pp. 336-7) argues that the Athenians may have had an informal preference for unanimity. Hansen, as we have seen, is adamant on the adversarial and majoritarian nature of Athenian democracy, but in M. H. Hansen, *The Athenian Ecclesia: A Collection of Articles, 1976-1983* (Copenhagen: Museum Tusculanum Press, 1983) 207-29, a comparative study of the Athenian Assembly and the Swiss Landsgemeinde, contemplates the possibility that many votes in Athens, like in the Swiss Landsgemeinde, might have been unanimous.



scale direct and participatory democracies, and therefore have mostly failed to engage directly with the study of Athenian democracy.<sup>13</sup> To give only one authoritative example, Fishkin, reflecting on the classical model of direct participatory democracy, stresses the problems of direct face-to-face democracies, arguing that small-scale democracy is “more vulnerable to tyranny” because it is “more vulnerable to demagoguery,” and that increased participation does not address the problem of the quality of the participation: “the deliberative competence of mass publics is suspect.”<sup>14</sup>

The potential gap between participatory (and direct) democratic forms and modern theorizations and examples of deliberative democracy has in fact been cast in sharp relief by the growing role played by plebiscitary forms of direct democracy in recent years—repeated attempts to resort to the direct “will of the people” through referenda (often the result of “popular initiative”) normally called by right-wing populist on a variety of key issues. To cite Claus Offe’s recent insightful discussion of these issues, “In recent years, these instruments of direct democracy have been applied to policies as varied as whether to permit or ban the construction of minarets, restrictions on migration, the public use of a minority language, the acquisition of agricultural land by foreigners, same sex marriage, the (retroactive) imposition of inheritance taxes, and the introduction of a basic income.” The appeal of these plebiscitary forms is connected to the much-discussed crisis of legitimacy of modern liberal representative democracy.<sup>15</sup>

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<sup>13</sup> See e.g. Carole Pateman, “Participatory democracy revisited,” *Perspectives On Politics* 10/1 (2012) 7-19 and also Yves Sintomer, “Délégation et participation : affinité élective ou concepts en tension ?”, *Participations* 1 (2011) 239-276; “De la démocratie délibérative à la démocratie radicale? Tirage au sort et politique au 21ème siècle,” *Participations* 9 for examinations of the tension between the normative ideals and the practices of deliberative and participatory democracy. In fact, recent developments in deliberative democracy studies have started to stress the compatibility and the connection between participatory and deliberative democracy, see Curato et al., “Twelve,” 32.

<sup>14</sup> James Fishkin, *Democracy and Deliberation: New Directions for Democratic Reform* (New Haven: Yale University Press, 1993) 21, 50.

<sup>15</sup> Claus Offe, “Referendum vs. institutionalized deliberation: what democratic theorists can learn from the 2016 Brexit decision,” *Daedalus* Summer 2017 (2017). See also James Fishkin and Jane Mansbridge, “Introduction,” *ibid.*, 6-13; Hélène Landemore, “Deliberative democracy as open, not (just) representative democracy,” *ibid.*, 51-63.

The most egregious case of this phenomenon, discussed in detail by Offe, is probably the Brexit referendum of June 23, 2016, when 51.9% of UK voters (37.3% of all eligible voters, since the turnout was 71.8%) answered the question “Should the United Kingdom remain a member of the European Union or leave the European Union?” with “Leave the European Union.” Voters were mostly left without clear guidance from the main political parties, both split or ambiguous on the issue. The information available was to a large extent skewed, false, and in any case designed to foster the aims of one camp over the other and not to produce informed debate. In fact, not only were there no deliberative forums available for voters to probe their own preferences and convictions, but the entire campaign was construed as purely adversarial, and focused on issues that were lateral to the actual choice at hand, such as “taking back control” (from whom?) and immigration (many voters declared they were voting Leave to stop Muslims to enter the UK!) on one side, and very uncertain apocalyptic economic forecasts on the other. Conversely, there was no real debate on the European Union itself, on its workings, merits and problems—most voters were shown to be painfully ignorant of what the EU does and of how it works, and political leaders fostered this ignorance, rather than focusing on providing the public with the information necessary for making a decision. In Offe’s words, “Plebiscitarian procedures thus impoverish the tool box of democratic politics by eliminating the space for post-voting reasoning and compromise-finding in the institutional framework of representative democracy.” The question itself, as it was posed, was misleading and obscured the complexities of the issue, specifically: 1) Leave, and adopt an EFTA or WTO framework? 2) Leave, while the UK remains intact or while it splits up? 3) Remain, in what manner?<sup>16</sup> Most Leavers ended up in fact not answering the poorly formulated question of the referendum, but a different question: “Do you want to seize the opportunity to send a hostile message and cause trouble to

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<sup>16</sup> See Thomas Colignatus, “The Brexit referendum question was flawed in its design,” *RES Newsletter* 177 (2017) 14-16.

the hated political establishment—be it the national or the one in Brussels?.”<sup>17</sup> Moreover, they had no clear sense of what public opinion actually looked like, and many Leavers voted as they did convinced by the polls that their vote would matter little, because Remain would win anyway—and they regretted it afterwards.

The result of this very poor exercise of direct democracy has been politically and constitutionally disastrous. With this, I do not mean that the actual long-term consequences (economic or otherwise) of Brexit will be disastrous—that it was the wrong choice absolutely—as this is something that that we cannot know for sure at this stage. But regardless of the long-term results, this decision has created a split citizenship with two camps perceiving each other as entirely alien, inimical and dangerous. Politically, it has produced no legitimacy whatsoever for the decision made. First, the status of the referendum (binding or advisory) vis-à-vis Parliament was unclear from the outset. Second, the poor quality of the debate and information that led to the vote undermined its legitimacy. A few days before the referendum, on June the 14<sup>th</sup>, a letter signed by many academics stated on the *Telegraph*: “A referendum result is democratically legitimate only if voters can make an informed decision. Yet the level of misinformation in the current campaign is so great that democratic legitimacy is called into question.”<sup>18</sup> And, sure enough, just a few days after the referendum, over four million British voters had signed a petition asking for a second referendum.<sup>19</sup> At the time of writing, with only four months to go before the faithful date of Brexit, many are still vocally asking for a second referendum, and there is no guarantee that whatever deal is struck with the EU will be ratified by Parliament. Third, the poorly formulated question failed to provide a clear mandate, because it did not specify whether the UK should strive to remain part of EFTA or keep access to the

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<sup>17</sup> Offe, “Referendum,” 20.

<sup>18</sup> *Telegraph* 14 June 2016: <http://www.telegraph.co.uk/opinion/2016/06/13/letters-both-remain-and-leave-are-propagating-falsehoods-at-publ/>.

<sup>19</sup> See, for the case for a second referendum, e.g. Simon Wren-Lewis, “Why we must have a second Brexit referendum,” *Social Europe* August 29 (2016) <https://www.socialeurope.eu/2016/08/must-second-brexite-referendum/>.

Common Market, or rather prioritize full control on the borders, at all costs. This has caused enormous uncertainty, attempts by the government to seize control from Parliament, and use full discretionality on the force of the referendum result, and finally caused a new election to obtain the necessary “mandate” which the referendum had failed to provide. To this day, it is unclear whether there is a mandate, and what this mandate is for. Moreover, on the constitutional level, the referendum has endangered the very integrity of the United Kingdom, with calls for another independence referendum in Scotland (which voted Remain with a strong majority), and the danger of violence in Northern Ireland.

There can be little doubt that modern forms of plebiscitary direct democracy are as far removed from the deliberative democratic ideal as possible, and in fact political theorists are proposing that a robust injection of deliberative democracy might well be the only antidote to the crisis of legitimacy of modern democracies.<sup>20</sup> Ancient Athens was the prototypical example of direct democracy, with the *demos* voting on all possible issues, without intermediaries (representatives). Were Athenian decision-making and political life anything like the plebiscitary model of democracy exemplified by Brexit, and gaining momentum in our times? Is Athens useful only as a case study of what is wrong with plebiscitary forms of direct democracy? My answer is no. I argue instead that Athens is an extremely rich case study of direct democracy with mass participation whose workings and, most of all, legitimacy were secured through robust deliberative institutions, fostering extensive and (relatively) informed debate on all issues, and reinforced by a strong deliberative ethos—a “deliberative stance” that was introjected by, and expected from, all citizens taking part in democratic deliberation.<sup>21</sup>

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<sup>20</sup> See now Fishkin-Mansbridge, “Introduction”; Offe, “Referendum”; Landemore, “Deliberative”; “Referendums are never merely referendums: on the need to make popular vote processes more deliberative,” *Swiss Political Science Review* 24/3 (2018) 320–327.

<sup>21</sup> I borrow this expression from Owen-Smith, “Survey,” 228–30.

In this article,<sup>22</sup> I explore the place of democratic deliberation in Athens' institutions of direct democracy, with a particular focus on the Assembly. The focus of the Assembly does not mean to imply that democratic deliberation occurred only in the Assembly, or that showing that the Assembly made decisions through a form of consensus deliberation *per se* demonstrates beyond doubt the deliberative credentials of the political system of Athens as a whole. But the Assembly is a particularly apt case study, and certainly the best place to start: first, because its procedures (as well as the behaviours that were appropriate in it) are extensively documented in the sources, both literary (particularly oratory and the historians) and epigraphical (a large corpus of decrees of the Assembly is preserved from the fifth and particularly the fourth centuries BCE); second, because the Assembly was the institution that most straightforwardly embodied the *demos* in its collectively decision-making capacity, as shown by the very enactment formulas of Athenian decrees, whose most common phrasing is *edoxe toi demoi* ("it was the opinion of the *demos*", "it was decided by the *demos*").<sup>23</sup> Assembly deliberative procedures interacted with a variety of other deliberative forums, as well as with non-deliberative ones such as the lawcourts (whose procedures were aggregative and strictly majoritarian): in the conclusion I come back to these interactions to introduce the notion of deliberative system, and I plan to analyse such interactions in depth in further studies. But showing that the institutional architecture of the Assembly—the central collective decision-making institution of the Athenian *polis*—was designed to produce democratic deliberation towards consensus goes a long way towards demonstrating the key importance of such a system of decision-making for the Athenians.<sup>24</sup>

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<sup>22</sup> Which should be profitably read together with Canevaro, "Majority."

<sup>23</sup> For the most comprehensive study of all these formulas across the Greek world, in all their variations, and of their procedural implications, see P. J. Rhodes with D. M. Lewis, *The Decrees of the Greek City-States* (Oxford: Oxford University Press 1997).

<sup>24</sup> See the conclusion for some remarks and basic bibliography on these institutional interactions and the notion of "deliberative system".

Modern discussions of democratic deliberation have focused on the one hand on its procedural set-up—the environment in which deliberation takes place, which must be characterized, for instance, by equal and fair participation—, and on the other on deliberative behaviours—the behaviours of those who take part, the nature of the kinds of speech acts and of listening attitudes that are appropriate for democratic deliberation.<sup>25</sup> In Section 1 of this article I concentrate on the procedural environment of the Assembly—on whether it was designed to favour deliberation towards consensus, and on the place of deliberation and consensus within it. In Section 2 I focus on behaviours, and more precisely on normative statements of appropriate Assembly behaviour, and on their justifications, in the actual preserved speeches of a high-profile participant, Demosthenes. A particular concern emerges with the legitimacy of the decisions, which is understood as produced by the access to deliberation of all positions (and by the opportunity of everyone to participate in deliberation), rather than by access to voting *per se*. Sections 1 and 2 prepare the ground for Section 3, in which I analyse in detail a very problematic case of Assembly deliberation, one that could be loosely compared to Brexit, identifying particular features that elevate Athenian decision-making beyond the mere aggregation of pre-existing preferences.

## 1. Deliberative procedures

In this section, I analyse the deliberative procedures that governed debate and decision-making by vote (*cheirotomia*) in the Athenian Assembly, to show that it is possible to identify in these complex procedures an institutional concern with extensive and open deliberation, as well as with the creation of consensus.

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<sup>25</sup> See e.g. Dimitri Landa and Adam Meirowitz, “Game theory, information, and deliberative democracy,” *American Journal of Political Science* 53 (2009) 427–444, at pp. 429–30; Christian List, “Democratic deliberation and social choice: a review,” in *Oxford Handbook of Deliberative Democracy*, eds André Bächtiger et al. (Oxford: Oxford University Press, forthcoming).

The Athenian Assembly met in the fourth century BCE at least forty times a year, four times per prytany (there were ten prytanies—‘months’—according to the calendar of the Council, which marked the political year).<sup>26</sup> In addition to these forty meetings, any number of extraordinary meetings could be called. Meetings started at dawn and could last as long as a full day (Ar. *Eccl.* 740-1; Xen. *Hell.* 1.7.7).<sup>27</sup> Assembly attendance was open to all adult males over eighteen years of age (Arist. *Ath. Pol.* 42.5). These have been calculated for the fourth century BCE in the region of 30,000,<sup>28</sup> of which at least 6,000 were present at each Assembly meeting.<sup>29</sup> Participation was not only allowed but encouraged and enabled through Assembly pay, which for most of the fourth century BCE was of one drachma for most Assembly meetings, and one drachma and a half for the “main” (*kyrioi*) meetings, one per month. One drachma was the same as the average pay for one day’s work for an unskilled labourer,<sup>30</sup> and has been calculated as equivalent to ca. 9 litres of wheat, 2.6 times the pre-modern bare subsistence level for a household.<sup>31</sup> But, in order to be paid, an Athenian had to be there at the very beginning of the Assembly meeting (Ar. *Eccl.* 290, 385; 395). The sources confirm that participation was indeed substantial, also and particularly among the poor, although the inhabitants of the city proper were overrepresented compared to the inhabitants of the

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<sup>26</sup> For an accessible discussion of the Athenian calendars see Robert Hannah, *Greek and Roman Calendars: Constructions of Time in the Classical World* (London: Duckworth, 2005) 42-70. On the number of meetings see E. M. Harris, *Democracy and the Rule of Law in Classical Athens: Essays on Law, Society, and Politics* (Cambridge: Cambridge University Press, 2006) 81-120 (with full references to the long debate on this issue between Harris and Hansen).

<sup>27</sup> See Hansen, *Democracy*, 136-7.

<sup>28</sup> For this number and a summary of how it is calculated see Hansen, *Democracy*, 90-4.

<sup>29</sup> This was the *quorum* required for some particular decisions. See Hansen, *Ecclesia I*, 10-12; Hansen, *The Athenian Assembly in the Age of Demosthenes* (Oxford: Blackwell, 1987) 15-16; Canevaro, “Majority,” 117-22. See also G. Stanton, “The shape and size of the Athenian assembly place in its second phase,” in *The Pnyx in the History of Athens: Proceedings of an International Colloquium Organized by the Finnish Institute at Athens, 7-9 October, 1994*, eds Björn Forsén and Greg Stanton (Helsinki: Foundation of the Finnish Institute at Athens, 1996) 7-21 for more generous estimates of the capacity of the Pnyx, which would imply, if correct, an even higher average attendance.

<sup>30</sup> See the epigraphic and literary sources collected in William Loomis, *Wages, Welfare Costs, and Inflation in Classical Athens* (Ann Arbor, MI: University of Michigan Press, 1998) 111-13; M. M. Markle, “Jury pay and assembly pay at Athens,” in *Crux: Essays Presented to G. E. M. de Ste. Croix*, eds Paul Cartledge and F. David Harvey (London: Duckworth, 1985) 265-97; Walter Scheidel, “Real wages in early economies: evidence for living standards from 1800 BCE to 1300 CE,” *Journal of the Social and Economic History of the Orient* 53 (2010) 425-62, here pp. 441-2, 455-6.

<sup>31</sup> Walter Scheidel and Friesen, “The size of the economy and the distribution of income in the Roman Empire,” *Journal of Roman Studies* 99: 61-91; Scheidel, “Wages”; Josiah Ober, “Wealthy Hellas,” *Transactions of the American Philological Association* 140 (2010) 241-86, here p. 262.

countryside—for those living at the farthest periphery of Attica, the roundtrip could be as long as 50-60 miles, and therefore their ability to attend meetings, particularly emergency meetings, must have been more limited. As we shall see, all citizens had equal rights in the Assembly, not only the right to vote, but particularly the right to speak. In Aeschines' words (1.27): "[the legislator] does not expel a man from the platform if his ancestors have not served as generals, nor if he works at some trade to provide for the necessities of life; indeed, he especially welcomes these men, and this is why he repeatedly asks: 'Who wishes to speak?'" (trans. Carey).<sup>32</sup>

Assemblies were called, and their agenda drafted, by the *prytaneis*, a fifty-men strong tribal section of the Council of Five Hundred which stayed in charge for a month. Councillors were selected by lot each year on a geographical basis, to be representative of the entire population. The Council met every day, passed its own decrees, pre-discussed all matters that had to be later discussed by the Assembly, and passed preliminary decrees that needed then final approval by the Assembly.<sup>33</sup> Council procedure was very similar to Assembly procedure (discussed below), just on a smaller scale. The Council and the Assembly decided directly on all sorts of matters of collective interest—Aristotle summarizes (not exhaustively) their remit as state income, imports and exports, war and peace, defence, lawmaking, death penalties, exile, confiscations, election of magistrates and their accounts' (Arist. *Pol.* IV 14 1298a 3-7; *Rhet.* I 4 1359b 19). Nine *proedroi* selected by lot on the morning of the Assembly meeting from the nine tribes that were not currently providing the *prytaneis* were in the fourth century in charge of the running of the Council and the Assembly (while in the fifth century the

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<sup>32</sup> For the standard account of the Assembly see Hansen, *Assembly* and, more synthetically, Hansen, *Democracy*, 125-60, supplemented now by Canevaro, "Majority".

<sup>33</sup> The indispensable study of the Athenian Council is P. J. Rhodes, *The Athenian Boule* (Oxford: Oxford University Press, 1972).



*prytaneis* performed also this role in addition to setting the agenda).<sup>34</sup> One of the *proedroi* was selected by lot as *epistates*—the chairman.<sup>35</sup> As the *proedroi* (and, in the fifth century, the *prytaneis*) managed each Assembly meeting, as we shall see, with large discretion, a more thorough understanding of the nature and constraints of Assembly deliberation depends to a large extent from the reconstruction and analysis of their duties and powers, yet the *proedroi* have never been the object of much scholarly attention.<sup>36</sup> They will take centre stage for the next few pages.

First of all, once the Athenians were seated in the Assembly, after the ritual purifications, the prayers, the curses and the offerings, and before the debate started, the *proedroi* proceeded to a *procheirotomia*: a preliminary vote.<sup>37</sup> No matter could be debated (and no vote could be cast on a matter) on which the Council had not previously deliberated, and about which a preliminary decree of the Council (*probouleuma*) had not been passed. The Council, after discussion, enacted two kinds of *probouleumata*: open *probouleumata*, that introduced a matter for the consideration of the Assembly without making an actual proposal on what should be enacted; and closed *probouleumata*, fully worked out decrees to be submitted to the Assembly for approval.<sup>38</sup> At the *procheirotomia*, closed *probouleumata* were introduced and put to the vote by the *proedroi* without any debate. Thus, closed *probouleumata* approved at the *procheirotomia* were simply enacted without debate, whereas those that were rejected were brought up again for debate, for new and amended proposals to be made. This initial procedure

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<sup>34</sup> Aeschin. 3.3, see Hansen, *Ecclesia I*, 135. Thus, in the fourth-century evidence (discussed in this section) the “facilitators” are the *proedroi*, while in fifth-century evidence, such as Thucydides (discussed in Section 2), they are the *prytaneis*.

<sup>35</sup> Hansen, *Assembly*, 37-9.

<sup>36</sup> Pp. 000-00 of this section reworks (in a more accessible fashion) the results of Canevaro, “Majority,” 123-39, also expanding upon them and adding further elements to the analysis. Hansen, *Assembly* is the only work that discusses the prerogatives of the *proedroi* in some detail, yet it fails to draw from them wider conclusions about the nature of Assembly deliberation.

<sup>37</sup> See Hansen, *Assembly*, 90-1. On *ta hiera*, see Harris, *Democracy*, 91-2.

<sup>38</sup> See Rhodes, *Boule*, 52-82 for the most comprehensive and insightful study; see also Roger de Laix, *Probouleusis at Athens* (Berkeley and Los Angeles: University of California Press, 1973) and, synthetically, Hansen, *Democracy*, 208-211.

was necessary due to the sheer number of measures that must have been enacted by the Assembly, which made it impossible for all of them to be debated with multiple speeches and proposals: the *procheirotomia* provided an expeditious way to approve closed *probouleumata* that commanded universal agreement, expressed with a unanimous vote, whereas whenever even one hand was raised against the *probouleuma*, the matter had to move to the debate stage of the Assembly, and discussion and proposals would eventually result in a non-*probouleumatic* decree (or in the additional enactment of a rider to the original *probouleuma*).<sup>39</sup> But even closed *probouleumata* enacted unanimously at the *procheirotomia* had been extensively discussed, with procedures analogous to those that I describe below, in the Council, by five hundred Athenians selected by lot.

Once the debate stage of the Assembly meeting commenced, the proceedings were truly in the hands of the *proedroi*. The *proedroi* had extensive powers in the Assembly—their prerogatives resemble those of modern “facilitators” in various forms of consensus deliberation, but adapted for the setting of a Council of five-hundred, and of an Assembly of at least 6,000—which gave them the ability to encourage deliberation and, I shall argue, stir it towards consensus.<sup>40</sup> The chairman of the *proedroi* received from the chairman of the *prytaneis* the agenda, and the *proedroi* were in charge of its implementation—they needed to make sure that all items were dealt with. They were in charge of introducing all motions to the Assembly, both the closed *probouleumata* at the *cheirotomia* and any proposal or amendment at the debate stage, as shown by the standard *probouleumatic* formula of Athenian decrees: ‘let it be resolved by the Council

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<sup>39</sup> This interpretation is advanced in Hansen, *Ecclesia I*, 123-30, supported now by most scholars. Rhodes, *Boule*, 68-81 calculates that throughout the fourth century BCE around half of the decrees enacted were closed *probouleumata*, probably ratified at the *procheirotomia* unanimously without the debate. S. D. Lambert, *Inscribed Athenian Laws and Decrees in the Age of Demosthenes. Historical Essays* (Leiden: Brill, 2018) 227-71 shows that in the second half of the century (in the age of Demosthenes) the percentage of closed *probouleumata* was in fact much lower, and therefore that most Assembly decrees were enacted after actual debate in the Assembly (see also p. 241 n. 45 for *procheirotomia* in particular).

<sup>40</sup> See e.g. Jane Mansbridge et al., “Norms of deliberation: an inductive study,” *Journal of Public Deliberation* 2/1 (2006) 1–47; Graeber, *Democracy Project*, 220-23. Cf. Lawrence Susskind, Sarah McKernan and Jennifer Thomas-Larmer, *The Consensus-Building Handbook* (Thousand Oaks, CA: Sage Publications, 1999) 199-240 and *passim* for rules of effective facilitation.

that the *proedroi*, whoever are chosen to be *proedroi*, at the first Assembly shall introduce the matter...'.<sup>41</sup> Any amendment or proposal introduced during the Assembly meeting had therefore to be handed over to them in writing (Aeschin. 2.68). They decided when to close the debate and what proposal(s) should be put to the vote (Aeschin. 2.84). Dem. 22.5 and 9 show that the *proedroi* had ample discretion as to what proposals should be put to the vote, to the extent that in 355/4 they put to the vote a crown for the Council (proposed by Androtion) despite the fact that the Council had not been able to pass a *probouleuma* about it, because the law explicitly forbade it from requesting an award if it had not had the legal number of triremes built. Many decrees have formulas such as “Kallistogeiton of the *proedroi* put this proposal to the vote”, to identify on the initiative of which *proedros* a proposal had been put to the vote. This was due to the fact that there existed clear rules as to what the *proedroi* were allowed to put to the vote, and if somebody wanted to accuse a *proedros* of putting a proposal to the vote against the laws, the decree identified the *proedros* responsible. For instance, the law at Dem. 24.50 on supplication states that “if one of the *proedroi* puts the matter to the vote either for the convicted himself or for another on his behalf before he has paid, he will be disenfranchised”.<sup>42</sup> Aeschin. 2.84 is evidence that the *proedroi* had even the power to refuse to put a proposal to the vote, a prerogative that Demosthenes attempted to use against a proposal to add Chersobleptes to the allies of Athens signing the peace with Philip. Finally, they also had the power to assess the vote,<sup>43</sup> and that of forcing a speaker to leave the *bema*. Misuse of these prerogatives of course occurred (as Aeschin. 3.2-6 makes clear), but as public officials the *proedroi* were liable to punishment at their *euthynai* (public accounts) or through an

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<sup>41</sup> See Hansen, *Assembly*, 36 and 38-9. In Canevaro, “Majority,” 128 I mistakenly state that they also read out all the *probouleumata* and the motions, yet this is far from clear, and it is possible (although not certain) that it was in fact the Secretary of the Council and the People who did this, see Arist. *Ath. Pol.* 54.5 and cf. *IG II*<sup>3</sup> 1 327 and 306, with Lambert, *Inscribed*, 179.

<sup>42</sup> This is a reliable document, on which see Mirko Canevaro, *The Documents in the Attic Orators* (Oxford: Oxford University Press, 2013) 132-8. See also *IG II*<sup>2</sup> 43.51-3 and Hyp. *Phil.* 4-6.

<sup>43</sup> See below pp. 000-00.

*eisangelia* (indictment) to the Council in the case of extreme abuse, and a special public charge against *proedroi* is attested (Arist. *Ath. Pol.* 59.2).

These extensive powers had the aim of allowing them to lead the debate in such a way as to reach a shared solution through deliberation. Whenever a vote was taken, as we shall see, this was always taken in the form of a *diacheirotomia* (a double vote by show of hands). The majority of *diacheirotomiai* involved first the assessment of the ayes, and then of the nays, and concerned only one proposal. There was no alternative proposal on the table. Several speakers spoke on any given matter, and many different ideas must have been voiced. There was no limit to the number of speakers that could address the Assembly on any given issue, and a speaker could speak more than once.<sup>44</sup> And there was no limit to the number of proposals that could be presented, as long as they were written down and handed over to the *proedroi*.<sup>45</sup> And yet the *proedroi* decided which proposal would get a *cheirotomia*, and read it out before the vote started. The very process through which a complex debate with multiple speeches and proposals was reduced to one proposal or to two options must have been one of consensus creation. The *proedroi*'s job must have been, that is, that of observing which speakers received more widespread support, and which proposals were likely to command wide consensus. Their powers to decide how long the debate should last, when a vote should be held, and on what proposal(s), were key in allowing them to interpret the debate and bring it to a close. And, conversely, they had the power of refusing to put a proposal to the vote, even when requested, if they believed that it was unlikely to win widespread support, or that it was divisive. Refusing to put to the vote proposals that were not met with support during the debate (through cheering and shouts of approval, as well as through the explicit endorsement of several speakers)<sup>46</sup> must have been a key instrument for making the reduction of the debate to one option possible. These

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<sup>44</sup> Thuc. 1.139.4; 3.36.6; 6.15.1; Xen. *Hell.* 1.7.12 with Hansen, *Assembly*, 91.

<sup>45</sup> Aeschin. 2.64-8; 83.4; 3.100.

<sup>46</sup> See Hansen, *Assembly*, 69-72 and, on *thorybos*, below pp. 000-00.

dynamics and the powers of the *proedroi* also had an effect on the behaviour of the speakers and on the nature of their interventions. For instance, we have evidence that speakers often drafted proposals to hand to the *proedroi* during the debate, when they realized that the support for their position or another's was growing (one example is Aeschin. 2.18, where Philocrates drafts a proposal during the debate). And Demosthenes often in his Assembly speeches suggests that if the people agree with the policy he is advocating, then he will draft a proposal and ask the *proedroi* to put it to the vote (Dem. 9.70; 14.14). On other occasions, when they realized that their written proposals were unlikely to win support, or even to be brought to the vote by the *proedroi*, they may decide not to hand them over (e.g. at Aeschin. 2.64-8 Demosthenes shows a draft decree to Amyntor but chooses not to pass it on to the *proedroi*). But what is clear is that speaking in the Assembly was not primarily about making a proposal. There were during the debate many more speeches than proposals, and the proposal that would be finally approved was not necessarily made by the same man that had delivered the strongest speech in support of the relevant policy.<sup>47</sup>

Two further institutional devices were significant because they were capable of dealing with disagreement before it manifested itself in the vote, and of fostering deliberation towards consensus rather than the pursuit of a simple majority for a given proposal. The first is the possibility to propose and enact pointed amendments to a motion from the floor, and have them

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<sup>47</sup> See Section 2 on the attitudes of speakers and the *demos* in the Assembly. Hansen, *Athenian Democracy*, 145-6 argues that the fact that the proposer often was not the same as the strongest or original advocate of a policy was also due to the fact that prominent politicians used minor figures or common citizens as proposers of their decrees to avoid the risk of *graphe paranomon* (see also, along the same lines, Claude Mossé, "The *demos*' participation in decision-making," in *The Greek Polis and the Invention of Democracy: A Politico-Cultural Transformation and Its Interpretations*, eds J. P. Arnason and K. A. Raafaub (Chichester: Wiley-Blackwell, 2013) 261-73), but see now Lambert, *Inscribed*, 175-81 who convincingly challenges this reconstruction and argues that proposing decrees was normally a sign of "personal" political activity. My own view, as is clear from the discussion in this section and below, is that there is nothing surprising (or "shady") in the fact that sometimes, or even often, proposers were not the same as those that first forcefully advocated a policy: successful proposals emerged from deliberation that involved several speakers as well as audience reaction (whoever it was that mentioned first the basic idea or policy), so it was not a given that the originator of a policy would be the one eventually synthesizing the results of the debate in the successful proposal. See below pp. 000-00 for a neat example of this dynamic during the Sicilian expedition debate.

approved in addition to, rather than instead of, the original proposal. Osborne has recently brought attention to this procedural feature of Athenian Assembly deliberation as evidence of its dynamism: Assembly decision-making was not entirely “scripted” and was not limited to voting on pre-prepared proposals, and the evidence of amendments from the floor strongly suggests intense debate involving ideas and progressive adjustments to a proposal.<sup>48</sup> Osborne goes through the fifth-century epigraphical evidence for amendments and reconstructs how they are likely to have emerged from debate and led the decision-making procedures “off-script”. For our purposes here, what is particularly interesting of this procedural feature is that it provides an avenue for limited disagreement (both substantively limited: on small issues; and numerically limited) or for new information to be taken into account without the need of rejecting or entirely redrafting a proposal that commanded (or was coming to command) wide consensus. How this might have worked out in practice can be made clearer by a couple of examples: in the spring of 346 BCE the Athenians renewed the honours that they had previously enacted for Leucon the ruler of Bosphorus, and enacted them for his sons and successors: Spartocus and Paerisades (*IG II<sup>3</sup> 248*).<sup>49</sup> This was a non-probouleumatic decree proposed by Androton, presumably directly during the debate, after an open *probouleuma* (or possibly after a closed *probouleuma* had been rejected at the *procheirotomia*). The decree is articulate and comprehensive both in its provisions and in detailing its motivations, yet it clearly missed something important: Spartocus and Paerisades had another (less prominent) brother, Apollonius, and the proposal does not mention him at all. This must have been pointed out. Instead of redrafting from the beginning the entire proposal, jettisoning therefore a text that was probably coming to command wide consensus, the matter was dealt with through a

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<sup>48</sup> Robin Osborne, “The theatre of the amendment in fifth-century Athens,” in *À l'Assemblée comme au théâtre. Pratiques délibératives des Anciens, perceptions et résonances modernes*, ed. Noémie Villacèque (Rennes: P.U. Rennes, 2018) 41-51. See now also Lambert, *Inscribed*, 227-71 on the incidence of amendments between 355/4 and 322/1, and 159-61 for their role in avoiding accusations of illegality. See also, of course, Rhodes *Boule*, 61, 71-2 and Table J at pp. 278-9 for the standard discussion of the procedure.

<sup>49</sup> For this inscription and more generally the relationship between Athens and the Spartocids see RO 64 as well as Mirko Canevaro, *Demostene, Contro Leptine. Introduzione, traduzione e commento storico* (Berlin: De Gruyter, 2016) 295-9 and 161-7 with further references.

short amendment, proposed by Polyeuctus son of Timocrates, granting (lesser) honours also to Apollonius. This was approved straight after the original proposal and inscribed at the bottom of the relevant stele. If the possibility of enacting an amendment to the original proposal had not been available, the only option would have been, for those that thought it important to honour also Apollonius, to vote against the decree. Thanks to the possibility of enacting an amendment, no disagreement had to be expressed at the vote, and the (small) problem could be dealt with otherwise. The same happened also when an actual mistake was spotted in a proposal that was otherwise commanding wide agreement. This is the case for instance with the decree honouring Euphron of Sicyon in 323 BCE (the original text is *IG II<sup>3</sup> 1 377*; the re-inscribed text of 318/17 is *IG II<sup>3</sup> 1 378*): this decree, among other things, granted citizenship to Euphron yet forgot to state (as was compulsory) that this had to be ratified with a second vote (by secret ballot, with a quorum) at the next Assembly meeting. The omission must have been noticed and could have led to the rejection of the decree, or to a charge of illegality. It was instead managed with an amendment proposed by Pamphilus son of Euphiletus prescribing the additional vote.<sup>50</sup> The procedural feature of proposing amendments to existing proposals could not prevent wide and substantial disagreements from emerging in the vote, but it could handle effectively small oversights or disagreement that could otherwise have prevented the solidifying of consensus and led to a split vote.<sup>51</sup>

The other institutional feature is the very possibility for any Athenian to bring at any point (before, during or after the debate, as well as after the vote or after the assembly meeting has finished) a *graphe paranomon* (a public charge against an illegal proposal) and immediately stop the debate, the vote, or the implementation of the relevant measure.<sup>52</sup> Of course, the

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<sup>50</sup> See Lambert, *Inscribed*, 159-61 for such corrections, and for more details and bibliography on this decree in particular.

<sup>51</sup> Note that this procedural feature is not attested outside Athens; see Ma, "Great Convergence," 277-98 at 289.

<sup>52</sup> On the *graphe paranomon* see the foundational studies: H. J. Wolff, *'Normenkontrolle' und Gesetzesbegriff in der attischen Demokratie* (Heidelberg: Carl Winter Universitätsverlag, 1970); M. H. Hansen, *The Sovereignty of the People's Court in the Fourth Century BC and the Public Action against Unconstitutional Proposals* (Odense:

following trial could well result in acquittal,<sup>53</sup> but this would take time, and in the meantime the relevant proposal would be impossible to approve and implement, creating an opening for alternative proposals to be approved and implemented instead, if the issue was particularly important or pressing. This is in fact what happened during the debate leading to the trial of the Arginousai generals (Xen. *Hell.* 1.7.34): the *probouleuma* of the Council provided that the generals should be tried together, but Euryptolemus proposed in the Assembly that they should be tried separately and prevailed at the vote. Yet his proposal was then challenged by *graphe paranomon* (initiated with a *hypomosia*), and could therefore not be implemented until the *graphe paranomon* was decided. Because the issue was pressing (the Athenians were keen to try the generals immediately) and the atmosphere of the Assembly was heated, once Euryptolemus' proposal was (for the time being) off the table, the Athenians just decided not to wait and enacted the proposal of the Council instead.<sup>54</sup> Because of this institutional arrangement, a proposal that was inherently divisive and was likely only ever to achieve a simple majority had a much higher probability of being halted with a *graphe paranomon* by anyone of the fifty percent minus one that was against it. Conversely, only by aiming for

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The University Press, 1974). See also Harvey Yunis, "Law, politics, and the *graphe paranomon* in fourth-century Athens," *Greek Roman and Byzantine Studies* 29 (1988) 361-82; Mark Sundahl, *The Use of Statutes in the Seven extant Graphe Paranomon and Graphe Nomon Me Epitedeion Theinai Speeches* (Phd Diss. Brown University, 2000), and now Mirko Canevaro, "Making and changing laws in ancient Athens," in *Oxford Handbook of Ancient Greek Law*, eds E. M. Harris and Canevaro (Oxford: Oxford University Press, online pre-publication 2015), within the wider context of Athenian *nomothesia*, and A. Esu, *Divided Power and Deliberation: Decision-Making Procedures in the Greek City-States (434-150 B.C.)* (PhD Diss., University of Edinburgh 2018) 186-225.

<sup>53</sup> If the decree had already been approved by the Assembly, acquittal at the trial would of course be that the then the decree challenged with the *graphe paranomon* would be automatically in effect. Hansen, *The Sovereignty*, 51-2 (see also M. H. Hansen, *The Athenian Ecclesia II: A Collection of Articles, 1983-1989* (Copenhagen: Museum Tuscolanum Press, 1989) 271-81) argues that this was the case also if the decree was stopped before the vote: acquittal in a lawcourt meant enactment of the decree, but this theory has been shown to be mistaken by J. M. Hannick, "Note sur la graphè paranomôn," *L'Antiquité Classique* 50 (1981) 393-97 and now by Esu, *Divided Power*, 207-10. If the decree was stopped by *graphe paranomon* before the final vote in the Assembly and was acquitted by a lawcourt, it had to go back to the Assembly for approval. It is clear that a challenge by *graphe paranomon* would have made the very possibility of enacting the decree enormously more problematic and time consuming, which is why speakers, proposers and the *demos* as a whole had a strong incentive to avoid such charges at all costs.

<sup>54</sup> On these events see E. M. Harris, *The Rule of Law in Action in Democratic Athens* (Oxford: Oxford University Press, 2013) 242-3, 341-2. This is the interpretation of what the *hypomosia* was about offered by Hansen, *The Sovereignty*, 29 (see also Bleckmann, *Athens Weg in die Niederlage: Die letzten Jahre des Peloponnesischen Kriegs (411 v.Chr.–404 v.Chr.)* (Berlin: Teubner, 1998) 568). Hansen, *Ecclesia I*, 103-21 has later changed his mind and interpreted this as an otherwise unattested *hypomosia* to challenge the assessment of the vote by the *proedroi*, but see Canevaro, "Majority," 137 n. 113.



consensual agreement proposers, assembly-goers, speakers and *proedroi* could really hope for a proposal to be enacted on the spot and smoothly implemented. The wider the overall support for a proposal that was achieved during the debate and the vote, the lower the chance that someone would want, or find the nerve, to bring a *graphe paranomon* against what was being agreed.

The procedures that regulated the debate and the formulation of proposals, and the powers attributed to the *proedroi*, all facilitated and incentivised the formation of consensus through deliberation. They were designed to give anyone the possibility to voice a point of view and persuade his fellow citizens of its merits, towards a shared resolution. Despite the strong disagreements that we find represented in our sources, the kind of Assembly debates that they describe, and that were encouraged by the institutional set-up, are ones in which speakers and Assembly-goers are not meant to enter the debate with absolutely fixed preferences for specific policies, but need to be willing to reformulate their positions, at least to some extent, as a result of deliberation, mutual persuasion, the reasons and arguments advanced during the deliberation, and ultimately by the presume of a forming consensus. This is reflected also in the extant speeches meant to be delivered in political assemblies (see Sections 2 and 3).

A further procedural feature to take into account is the vote. According to some modern theorists and practitioners, democratic deliberation and consensus do not involve a vote. A vote is in fact taken only when consensus cannot be reached through the deliberative process.<sup>55</sup> Such an approach, however, would not have been viable in the Athenian Assembly, composed by more than 6,000 citizens, in which whatever consensus the *proedroi* thought had been reached on a proposal needed to be tested through a vote that registered beyond doubt that consensus. Their position at the *euthynai* (public accounts) would have been otherwise very vulnerable.

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<sup>55</sup> See e.g. Mansbridge, *Beyond*, 32-3. Cf. Graeber, *Democracy*, 212-16, 224-5.

Moreover, more recent discussions have argued for the compatibility of democratic deliberation and even consensus with vote taking, within “deliberative systems” that, overall, fulfil certain deliberative conditions.<sup>56</sup> Curato et al. note that “Decision-making in deliberative democracy can involve voting, negotiation, or workable agreements that entail agreement on a course of action—but not on the reasons for it. All of these benefit from deliberation, which can involve clarification of the sources of disagreement, and understanding the reasons of others.”<sup>57</sup> In fact, in Athens even the voting procedure, *cheirotomia*, shows features that could help to create and preserve consensus, by encouraging some conformity (with the problems that can ensue) but also by reinforcing the need for all citizens to choose positions that are argumentatively defensible—fulfilling therefore even with their votes one of the basic conditions of deliberation.<sup>58</sup>

The *cheirotomia* was a vote by show of hands. The vote was assessed by the *proedroi* through a survey of the Assembly (Xen. *Hell.* 1.7.7). The *cheirotomia* took the form of a *diacheirotomia*, a vote between two alternatives. Normally the vote was held on only one proposal (e.g. Dem. 7.19; Aeschin. 2.84), and therefore first the ayes and then the nays were called to show their hands (Dem. 22.5, 9; [Dem.] 59.4-5; Aeschin. 3.39; *IG* II<sup>2</sup> 211.5-9).<sup>59</sup> First of all, as we have noted, the very fact that the debate on any given matter resulted in a simple vote on one proposal (or between two straight alternatives formulated in one proposal) is evidence that most other ideas, points of view and proposals were dealt with during the debate through a process of

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<sup>56</sup> On this compatibility, within the framework of ‘deliberative systems’ that, overall, fulfil certain deliberative conditions, see e.g. Mansbridge et al., “Systemic”; Owen-Smith, “Survey”; Stephen Elstub, Selen Ercan and Ricardo Mendonça, “Editorial introduction: the fourth generation of deliberative democracy,” *Critical Policy Studies* 10/2 (2016) 139-15; Michael Neblo, *Deliberative Democracy between Theory and Practice* (Cambridge: Cambridge University Press, 2015).

<sup>57</sup> Curato, “Twelve,” 31.

<sup>58</sup> See e.g. Bart Engelen and Thomas Nys, “Against the secret ballot: toward a new proposal for open voting,” *Acta Politica* 48/4 (2013) 490-507 for how open voting fosters deliberation and upholds some of the same ideals. For the issue of conformity, see below pp. 000-00.

<sup>59</sup> For a more detailed discussion of the evidence behind this statement, see Hansen, *Assembly*, 41-2; Canevaro, “Majority,” 134 n. 105.

synthesis and persuasion.<sup>60</sup> It is clear therefore that the very voting system presupposed protracted and effective democratic deliberation beforehand, otherwise at each vote several proposers would have been arbitrarily excluded.

Second, the vote by show of hands was open, not secret, and this came with significant advantages for the preservation at the vote stage of whatever consensus had formed during deliberation. This has been highlighted by recent scholarship on open voting. Public show of hands, as argued by Jon Elster, is not strictly simultaneous—there is time for individual voters to pause before raising their hands and get a sense of the general mood, or of how, for instance, particularly respectable and knowledgeable citizens (or, in a darker scenario, particularly powerful citizens), as well as friends and kin, are voting. Individual voters had thus time for hesitation and could alter their votes in light of others' views, having causal effect on one another.<sup>61</sup> Because of this, only genuinely strong disagreements with a consensus emerged through democratic deliberation would be expressed—disagreements of the kind, however, that one would be expected to voice already during the debate. And these disagreements must have been 'discursively defensible', to use Geoffrey Brennan's and Philip Pettit's terminology: the individual voter needed to be able to justify publicly his vote in terms of the common good, and ward off accusations of voting selfishly or irresponsibly.<sup>62</sup> Thus, voting by *cheirotomia* was

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<sup>60</sup> See above pp. 000-00 n. 000.

<sup>61</sup> Jon Elster, "The night of August 4, 1789: a study of social interaction in collective decision-making," *Revue Européenne des Sciences Sociales* 45 (2007) 71–94; Melissa Schwartzberg, *Counting the Many: The Origins and Limits of Supermajority Rule* (Cambridge: Cambridge University Press, 2013) 37. This kind of vote had therefore epistemic advantages of the kind discussed in Ober, *Democracy*; Ober, "Epistemic democracy in Classical Athens," in *Collective Wisdom. Principles and Mechanisms*, eds Hélène Landemore and Jon Elster (Cambridge: Cambridge University Press, 2008) 118–47. On the other hand, it can also favour the occurrence of 'informational cascades', when people come to endorse incorrect beliefs because other authoritative individuals have the same beliefs (and regardless of their correctness). See in particular Cass Sunstein, "The law of group polarization" *Journal of Political Philosophy* 10/2 (2002) 175–195; Sunstein, *Why Societies Need Dissent* (Cambridge, MA: Harvard University Press, 2003) 21; Sunstein, "Group judgments: statistical means, deliberation, and information markets," *New York Law Review* 80/3 (2005) 962–1049; as well as Zsuzsanna Chappell, *Deliberative Democracy. A Critical Introduction* (Basingstoke: Palgrave Macmillan, 2012) 66–7, 104. See Jon Elster (ed.), *Secrecy and Publicity in Votes and Debates* (Cambridge: Cambridge University Press, 2015) for a wide-ranging investigation of the issue of publicity in deliberation and voting.

<sup>62</sup> Geoffrey Brennan and Philip Pettit, "Unveiling the vote," *British Journal of Political Science* 20 (1990) 311–33. See also Jon Elster, "The market and the forum: three varieties of political theory," in Bohman-Rehg (eds), *Deliberative*, 3–33, here pp. 11–13; Elster, "Night"; Schwartzberg, *Counting*, 38.

capable of enlisting shame in the service of consensus creation. Shame was sometimes a negative force, inimical to voicing one's own opinion when consensus was forming and driving towards conformity. This is what is implied by Nicias at Thuc. 6.13.1, when he incites the older among the Athenians not to be shamed down (μὴ καταισχυνθῆναι) and fear to be considered cowards if they vote against (ἀντιχειροτονεῖν) going to war with Syracuse—they did not vote against it in the end.<sup>63</sup> But shame could also be a positive force towards responsible behaviour in the Assembly, fostering concern for the common good and abidance by a communally accepted honour code.<sup>64</sup>

All the procedural features of the Athenian Assembly that I have discussed are typical of deliberative democracy and of systems of decision-making striving to achieve consensus. Their aim is to resolve disagreement and achieve, through sustained debate, deliberation, and significant redrafting, a final proposal that commands as close to universal support as possible. The very voting system in Athens is designed to make sure that whatever consensus deliberation has succeeded in creating is not disrupted by irresponsible or selfish voting, and that everyone's position is justifiable and defensible, not only in the debate but also at the vote.

Of course, in Joshuas Cohen's words, "even under ideal conditions there is no promise that consensual reasons will be forthcoming", but engaging meaningfully with the deliberative

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<sup>63</sup> See below pp. 000-00 for conformity (in connection with *thorybos*), and Section 3 for a detailed analysis of the deliberations that lead to the Sicilian expedition. See Edmond Lévi, "La prise de décision collective chez Thucydide," in *Débats antiques*, eds M.-J. Werlings and Fabian Schulz (Paris: De Boccard 2011) 35 for the use of *anticheirotoneo* in Thucydides.

<sup>64</sup> Engelen-Nys, "Secret," stress the positive role of shame in open voting. The phenomenon here is akin to what Jon Elster, "Deliberation and constitution making," in Elster, *Deliberative*, 97-122 terms "the civilizing force of hypocrisy," see below pp. 000-00. I refer here to Douglas Cairns, *Aidōs: The Psychology and Ethics of Honour and Shame in Ancient Greek Literature* (Oxford: Oxford University Press, 1992); Cairns, "Honour and shame: modern controversies and ancient values," *Critical Quarterly* 53/1 (2011) 23-41 in Classics; to K. A. Appiah, *The Honor Code: How Moral Revolutions Happen* (New York: W. W. Norton & Co., 2011) outside Classics for discussions of the role of honour and shame in fostering both moral conformity and responsible and respectful behavior. See also Dem. 60.25-6 with Mirko Canevaro, "Courage in war and the courage of the war dead – ancient and modern reflections," in *Commemorating war and war dead*, eds Maurizio Giangiulio, Elena Franchi and Giorhia Proietti (Stuttgart: Steiner Verlag, 2018) for *parrhesia* producing courage in the Athenians through more effective shaming of cowards.

process will alter the behavior of the voters nevertheless: “the results of voting among those who are committed to finding reasons that are persuasive to all are likely to differ from the results of an aggregation that proceeds in the absence of this commitment”.<sup>65</sup> It is hard to test how successful these procedures actually were in fostering informed deliberation. The next two sections will attempt to probe the evidence for some information precisely about this. As for the amount of consensus that was actually reached, scholars have observed that the very formulas of Athenian decrees are designed to give an “impression” of consensus. An “impression”, that is, because scholars have always assumed that these formulas conceal the reality of heavily split votes. Osborne, most notably, has interpreted this “impression” of unity transmitted by inscribed decrees, together with their frequent vagueness, as resulting from deliberate “depoliticizing” before publication – decrees were deliberately drafted for publication in such a way as to obscure the contentiousness of their adoption and the divisions emerged during the debate and in the vote, in order to stress (or fabricate) the unity of the community.<sup>66</sup> And yet in later inscriptions we do find overwhelmingly unanimous votes by show of hands (and no heavily split votes, in Athens or elsewhere): a few Athenian Hellenistic and Roman decrees provide a rather more elaborate record of *diacheirotoniai* than Classical inscriptions do, but the procedure they describe is the same we can reconstruct from Classical sources. They state explicitly that the votes were all ayes, and there were no nays (*IG* II<sup>2</sup> 1368

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<sup>65</sup> Joshua Cohen, “Deliberation and democratic legitimacy,” in Bohman-Rehg (eds), *Deliberative*, 67-92, here p. 75. Cf. Graeber, *Democracy*, 216, who explains why ‘modified consensus’ of 90%, or even a supermajority of two thirds, is not equivalent to majority rule when meaningful consensus deliberation has preceded it. See also Curato, “Twelve,” 31: “voting” can “benefit from deliberation, which can involve clarification of the sources of disagreement, and understanding the reasons of others.” Bernard Manin, “Volonté générale ou délibération? Esquisse d’une théorie de la délibération politique,” *Le Débat* 33/1 (1985) 72-94 also stresses that deliberation towards consensus is not the same as, and does not require, a unanimity rule.

<sup>66</sup> R. Osborne, “Inscribing performance,” in *Performance Culture and Athenian Democracy*, eds Simon Goldhill and Robin Osborne (Cambridge: Cambridge University Press, 1999) 341–58 (esp. 343, 350); cf. Benjamin Gray, *Stasis and Stability: Exile, the Polis, and Political Thought, c. 404–146 BC* (Oxford: Oxford University Press, 2015) 179-80, as well as Nicole Loraux, *The Divided City: On Memory and Forgetting in Ancient Athens* (New York: MIT University Press, 2002) *passim*.

ll. 21-4; *SEG* 30.82 ll. 21-2; *SEG* 21.506 ll. 31-2). They are consistent with evidence from all over the Greek world which records exclusively unanimous (or quasi-unanimous) votes.<sup>67</sup>

But, apart from these, the only relevant evidence is in scattered allusions to votes of the Assembly in the literary sources. These usually refer to particularly contentious issues—mostly war and peace, and connected matters—characterized by heated debates, and we should expect to find heavily-split votes. And yet this is not what we find. The only uncontroversial case of a split vote is that following the Mytilenean debate at Thuc. 3.49.1. There we read: “and in the show of hands they were very close, but the opinion of Diodotus prevailed” (οἱ Ἀθηναῖοι ἤλθον μὲν ἐς ἀγῶνα ὅμως τῆς δόξης καὶ ἐγένοντο ἐν τῇ χειροτονίᾳ ἀγχώμαλοι, ἐκράτησε δὲ ἡ τοῦ Διοδότου).<sup>68</sup> What we should observe however is that this vote followed and reversed a vote on the previous day by which the Athenians had decided in anger to slaughter all the Mytilenean men and sell all women and children into slavery. This first vote is clearly represented by Thucydides as a consensual vote, one however not resulting from rational deliberation, but rather cast by an angry Assembly influenced by Cleon, a powerful speaker. What happened during the night can be read as the breakdown of whatever consensus had formed, and the next day a heavily-divided Assembly showed with a split vote that the consensus was no longer there. There is no doubt that the second decision was made by majority, and this is not in itself problematic, because consensus-based decision-making does not always reach unanimity—it does not have to. But the context is important, and the decision here was one to revisit a previous consensual decree, which was revoked by a majority vote that showed the lack of consensus intervened on the previous decision.

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<sup>67</sup> For an examination of all the evidence for voting figures from the Greek city states (all unanimous or quasi-unanimous), see Canevaro, “Majority,” 110-22, with discussion of whether this evidence can be considered representative.

<sup>68</sup> On this debate see E. M. Harris, “How to address the Athenian assembly: rhetoric and political tactics in the debate about Mytilene (Thuc. 3.37.50),” *Classical Quarterly* 63 (2013) 94–109, as well as Simon Hornblower, *A Commentary on Thucydides: Books I-III* (Oxford: Oxford University Press, 1991) 420-40 with previous bibliography. Loraux, *Divided City*, repeatedly alludes to the many instances of split votes, but this is in fact the only example she mentions.

Apart from this case, all the other references to votes in the Assembly, whether in Thucydides or in the orators, give the very strong impression that when a decision was made, it was made by all the Athenians, who had all been convinced to vote for a particular proposal (e.g. Thuc. 1.146; 2.14.1; 2.59.1-2; 2.65.1-2).<sup>69</sup> Many of these formulations may perhaps be considered unreliable, and give us little information as to how the vote actually went, but they are complemented by several explicit examples in the sources of unanimous decisions of the Assembly, which suggest that we should take generic references to “the Athenians” voting in block in one direction more seriously. Perhaps the most prominent example (and the most surprising) is the vote at the end of the debate in the Athenian Assembly about the launching of the Sicilian expedition (Thuc. 6.24.2-3; 26.1). Despite a heavily polarised debate (and much disagreement also in previous assembly meetings), the final vote is clearly unanimous: after Nicias’ last speech asking for more resources and a bigger expedition force, “far from losing their enthusiasm for the expedition in view of the logistic burden it would impose, the Athenians were yet more determined... All alike were smitten with a passionate desire to sail”; as a result, “the Athenians immediately voted the generals absolute discretionary power” (tr. Hammond).<sup>70</sup>

We also find instances of explicitly unanimous votes in Xenophon’s *Hellenica*. At *Hell.* 1.6.8-12, Callicratidas of Sparta’s speech in Miletus (in 406 BCE) to convince the Milesians to join the war effort against the Athenians appears to be met with unanimous agreement: Xenophon

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<sup>69</sup> See Felix Budelmann, “Ancient group minds? Chorus and *dēmos* in Classical Athens as case studies of collective cognition,” in *The Edinburgh History of Distributed Cognition*, Vol. 1, eds Miranda Anderson, D. L. Cairns and Mark Sprevak (Edinburgh: Edinburgh University Press, 2018) 190-208 for a discussion of the tendency of Athenian sources to represent the Athenians, when they make decisions, as unitary and unanimous. The material that he discusses, however faithfully it represents reality, shows that at the level of conceptualization there was, in the language itself, an expectation of consensus and unanimity.

<sup>70</sup> Thuc. 6.24.2-3: οἱ δὲ τὸ μὲν ἐπιθυμοῦν τοῦ πλοῦ οὐκ ἐξηρέθησαν ὑπὸ τοῦ ὀχλώδους τῆς παρασκευῆς, πολὺ δὲ μᾶλλον ὥρμητο, καὶ τοῦναντίον περιέστη αὐτῶ· εὖ τε γὰρ παραινέσαι ἔδοξε καὶ ἀσφάλεια νῦν δὴ καὶ πολλὴ ἔσεσθαι. καὶ ἔρωσ ἐνέπεσε τοῖς πᾶσιν ὁμοίως ἐκπλεῦσαι; Thuc. 6.26.1: ἀκούσαντες δ’ οἱ Ἀθηναῖοι ἐνηφίσαντο εὐθὺς αὐτοκράτορας εἶναι καὶ περὶ στρατιᾶς πλήθους καὶ περὶ τοῦ παντὸς πλοῦ τοὺς στρατηγούς πρᾶσσειν ἢ ἂν αὐτοῖς δοκῇ ἄριστα εἶναι Ἀθηναίοις. See Section 3 for a more thorough analysis of this debate.

makes this clear when he states that many stood up to propose to gather money for the effort, and also notes that many of these were afraid because they had been accused of opposing Callicratidas (ἀνιστάμενοι πολλοὶ καὶ μάλιστα οἱ αἰτιαζόμενοι ἐναντιοῦσθαι δεδιότες εἰσηγοῦντο πόρον)—it seems clear that there is no opposition whatsoever to Callicratidas’ request, because even those who could be suspected of being against it spoke in favour, and therefore the vote must have been unanimous. Likewise, the decision by the Athenian Assembly, in 396/5 BCE, to conclude an alliance with the Thebans to help them against the attack on Boeotia by Agesilaus and Lysander—the decision that effectively starts the Corinthian War—is made unanimously: ‘a great number of Athenians speak in support, and all vote to help the Thebans’ (5.16: πάμπολλοι μὲν συνηγόρευον, πάντες δ’ ἐψηφίσαντο βοηθεῖν αὐτοῖς).<sup>71</sup> And similarly, the decision of the Athenian Assembly, in 370 BCE, to go to the aid of the Spartans (*Hell.* 6.5.33-48) appears to have been made unanimously, despite plenty of disagreements during several speeches by the Spartan ambassadors and the other Peloponnesian ambassadors: in the end, after these speeches, the Athenians deliberate and become set against those who oppose supporting the Spartans, to the point that they cannot suffer listening to their arguments.<sup>72</sup> In these circumstances, the vote is clearly represented as unanimous (*Hell.* 6.5.49: μετὰ ταῦτα ἐβουλεύοντο οἱ Ἀθηναῖοι, καὶ τῶν μὲν ἀντιλεγόντων οὐκ ἠνείχοντο ἀκούοντες, ἐψηφίσαντο δὲ βοηθεῖν πανδημεῖ, καὶ Ἴφικράτην στρατηγὸν εἵλοντο).<sup>73</sup>

We also find the occasional precise description of a unanimous vote (besides many instances in which unanimity is vaguely implied) in the Attic orators: at [Dem.] 59.3-5 the final vote on Apollodorus’ proposal to pay the surplus into the military fund was unanimous (γενομένης γὰρ

<sup>71</sup> See *IG* II<sup>2</sup>14, cf. *RO* 6 for the (fragmentary) text of the alliance, and *Hell. Oxy. BNJ* 66 F 6 (Billows) for a more detailed account of the background of the decisions, also referring to various factions with different positions, all however, in the end voting unanimously for the alliance.

<sup>72</sup> For the role of *thorybos* in deliberation see below pp. 000-00.

<sup>73</sup> Here πανδημεῖ refers to βοηθεῖν and not to ἐψηφίσαντο: the Athenians voted to go to the Spartans’ aid *en masse*, they did not vote *en masse* to go to the Spartan aid. But the overall impression does not change: they cannot suffer anyone speaking against this decision and vote to go to the Spartans’ aid *en mass*. The implication is that vote was enthusiastic and, presumably, unanimous.



τῆς διαχειροτονίας, οὐδείς ἀντεχειροτόνησεν ὥς οὐ δεῖ τοῖς χρήμασι τούτοις στρατιωτικοῖς χρῆσθαι);<sup>74</sup> so, at Aeschin. 2.13, was the vote on Philocrates' decree to allow Philip to send a herald and envoys to speak of peace (ἐνταῦθα ἤδη δίδωσι ψήφισμα Φιλοκράτης ὁ Ἀγνούσιος, καὶ ὁ δῆμος ἅπας ὁμογνώμονων ἐχειροτόνησεν);<sup>75</sup> the vote in the *probole* in the Assembly against Meidias (Dem. 21.2: ἀλλὰ μῖα γνώμη κατεχειροτόνησεν αὐτοῦ) was also unanimous; and so was that in the *probole* against Ctesicles (Dem. 21.180: ἐτέρου τοίνυν ὃ τε δῆμος ἅπας κατεχειροτόνησ' ἀδικεῖν περὶ τὴν ἐορτήν); after Philip took Elatea in 339 BCE and the messengers reported to the Assembly, Demosthenes proposed a decree about showing up in arms at Eleusis and sending envoys to Thebes to plan the campaign, which was met with unanimous consent (Dem. 18.179: ταῦτα καὶ παραπλήσια τούτοις εἰπὼν κατέβην. συνεπαινεσάντων δὲ πάντων καὶ οὐδενὸς εἰπόντος ἐναντίον οὐδέν, οὐκ εἶπον μὲν ταῦτα, οὐκ ἔγραψα δέ, οὐδ' ἔγραψα μὲν, οὐκ ἐπρέσβευσα δέ, οὐδ' ἐπρέσβευσα μὲν, οὐκ ἔπεισα δὲ Θηβαίους); the vote in the Assembly that tasked the Areopagus with investigating the Harpalus affair was also unanimous (Din. 1.4: ψηφισαμένου γὰρ τοῦ δήμου δίκαιον ψήφισμα, καὶ πάντων τῶν πολιτῶν βουλομένων εὑρεῖν τίνες εἰσὶ τῶν ῥητόρων οἱ τολμήσαντες ἐπὶ διαβολῇ καὶ κινδύνῳ τῆς πόλεως χρήματα παρ' Ἀρπάλου λαβεῖν; cf. Din. 1.8, 86).

Even the more revealing accounts of votes in mythical political assemblies describe unanimous votes:<sup>76</sup> in Aeschylus' *Suppliants* the vote of the Argives (a proxy for the Athenian Assembly) to help the Danaids is of course by *cheirotomia* and is unanimous (Aesch. *Supp.* 604-7, 621).<sup>77</sup>

<sup>74</sup> See for this proposal and its interpretation Harris, *Democracy*, 129-34.

<sup>75</sup> See E. M. Harris, *Aeschines and Athenian Politics* (Oxford: Oxford University Press, 1995) 47-50 for the best account of this debate and the best analysis of the relevant passages.

<sup>76</sup> See David Carter, "Reported assembly scenes in Greek tragedy," *Illinois Classical Studies* 38 (2013) 23-63 for a discussion of assembly scenes in tragedy. Apart from the votes mentioned here, there is clearly a vote about the arms of Achilles in Sophocles' *Ajax*, yet the play is never clear about any of the details of the vote, or even on whether there was a debate beforehand, see Finglass 2011: 37-8. The few examples of split votes mentioned in tragedy come in fact from lawcourt scenes, in which majority rule and split votes was the norm, see Canevaro, "Majority Rule," 139-40. For a wide-ranging discussion of theatricality and deliberation in Athens, with much discussion of the relationship between Assembly and theatre, see Villacèque, *Spectateurs*, which however does not deal systematically with Assembly scenes in tragedy and comedy (with the exception of Ar. *Eccl.*, discusses at pp. 285-90).

<sup>77</sup> See Carter, "Reported," 29-34.

Likewise, in Euripides' *Suppliants*, Theseus announces that he will inform the *demos* of his wish to bury the bodies of the Argives and will ask for their opinion and take a vote (Eur. *Suppl.* 345-50). On his return, his words strongly imply that the Athenians unanimously agreed to what he proposed (Eur. *Suppl.* 394-5). Likewise, in Euripides' *Hecuba* (107-43), the assembly of the Greeks is very divided about the fate of Polyxena, but ultimately the strong impression given by the narrative is that Odysseus' speech succeeded in swaying everyone.<sup>78</sup>

I can offer no statistics here, and I admit that my sample is limited. But if we can get anything out of it, it is that split votes by majority rule were not the norm in Athenian Assemblies. Consensual decisions were common (it would appear, in fact, more common) even on important and controversial issues such as war, peace and alliances. Assembly procedures were designed to facilitate deliberation and the creation of consensus, and the little evidence we have suggests that they may have succeeded some, or even most, of the time.

## 2. Deliberative behaviours

It is difficult to assess Athenian Assembly behaviour in practice—we cannot sit through a meeting, and our sources are often biased, over-critical, or offer a skewed perspective, so that we are forced to read them against the grain. In the next section I do exactly this: relying on a historiographical account, I analyse in detail a specific example of protracted deliberation (on a very complex and high-stake matter), its unfolding, the mechanisms at play, and whether institutional concerns and rules were reflected in deliberative practice or were rather ignored, or overruled. In this section, conversely, I complement my analysis of institutional procedures and concerns—of the formal rules governing deliberation—with a discussion of more informal deliberative norms in the Athenian Assembly. My sources for these norms are the Assembly

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<sup>78</sup> See Carter, "Reported," 34-9.

speeches of Demosthenes (and occasionally those reported in Thucydides),<sup>79</sup> and particularly Demosthenes' normative statements about the appropriate behaviour of speakers and the public in the Athenian Assembly. The need to make such statements, of course, is in itself evidence that speakers and the public did not always behave appropriately. But the fact that Demosthenes would call them to order by referring to norms of behaviour that were shared by all is also evidence that there was indeed an Assembly etiquette, and that most people agreed on what appropriate behaviour looked like. These statements can therefore be used to get a sense of the requirements of Assembly etiquette, and of whether these reflected a deliberative ethos.<sup>80</sup>

First, a few words about the evidence. Most of the extant speeches of the Attic orators are in fact forensic speeches, prepared in advance, and often prepared for others. Assembly speeches, on the other hand, are rare, because the very nature of Assembly debate, which could develop in whatever direction and required participants to improvise and react quickly to the arguments of others, made prepared speeches of little use.<sup>81</sup> It is significant that the extant speeches are all by Demosthenes, and all from the early part of his career, when he was young, insecure, and presumably found some comfort in having a written text when he addressed the Assembly. No speeches are extant from the central and later parts of his career—he probably stopped composing them. On the other hand, his corpus preserves a strange collection of fifty-six *Prooimia*: short pieces to be used as preambles to potential speeches.<sup>82</sup> They are not tied to particular situations, but cover any possible scenario that may occur in the Assembly—they are slick pre-prepared pieces that can be memorized and used to begin a speech about virtually

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<sup>79</sup> See Jeremy Trevett, *Demosthenes. Speeches 1-17* (Austin, TX: University of Texas Press, 2011), with also E. M. Harris, "Rhetoric and politics in ancient Greece," in *The Oxford Handbook of Rhetorical Studies*, ed. Michael MacDonald (Oxford: Oxford University Press, 2014) and Shimon Epstein, "Direct democracy and minority rule: the Athenian assembly in its relation to the *demos*," in *Stability and Crisis in the Athenian Democracy*, ed. G. Herman (Stuttgart: Steiner, 2011) 145-74.

<sup>80</sup> For discussions of Assembly etiquette, see e.g. the works cited in the previous note, as well as E. M. Harris "How to address the Athenian assembly: rhetoric and political tactics in the debate about Mytilene (Thuc. 3.37.50)," *Classical Quarterly* 63 (2013) 94-109.

<sup>81</sup> See below pp. 000-00 on the need to extemporize and respond to the *demos* reactions.

<sup>82</sup> For a hypothesis on how they may have become part of the corpus, see Canevaro, *Documents*, 319-29.

anything. In some cases, the audience is assumed to be well-disposed towards the speaker's position; in some others the speaker is about to introduce unwelcome considerations; sometimes the speaker is speaking after others in support of what some have said, or against what some others have said; sometimes (often) he is speaking against a forming consensus; occasionally he is speaking first. They tell us nothing about particular situations, but they are extremely informative about the range of scenarios that could occur, and rich in normative statements about what is expected of the speaker, and what is the appropriate behaviour for other speakers and of the Athenians in general, and why.<sup>83</sup>

We have investigated above the procedural features that encouraged deliberation towards consensus, particularly the wide powers of the *proedroi*, and their (desired and, to an extent, actual) effects on the nature of the debates and the decisions that ensued. They also clearly had an effect on the behaviour of speakers—on the kind of rhetoric that was practised in the Assembly. As I have noted in the previous section, it is clear that speaking in the Assembly was not primarily about making a proposal. It was about giving advice and contributing to the debate. Accordingly, of all of Demosthenes' Assembly speeches, only the *First Philippic* appears to have been delivered in support of a specific proposal. All his other speeches were just contributions to the debate. The procedures that regulated the debate and the formulation of proposals, as we have seen, were meant to facilitate meaningful deliberation and the formation of consensus. This is reflected also in the extant speeches meant for the Assembly, which exhibit an “integrative” rather than “aggregative” kind of rhetoric, and whose arguments are invariably cast in terms of what is *sympheron* (useful) for the city as a whole—regardless of class division and sectional interests—and of the common good, and never overtly attempt

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<sup>83</sup> The *Prooimia* have not been much studied. The best edition (and most comprehensive study) is Robert Clavaud, *Démosthène, Prologues* (Paris: Les Belles Lettres, 1974). More recent studies are Yunis, *Taming*, 247-57; Ian Worthington, “Oral performance in the Athenian Assembly and the Demosthenic *Prooemia*,” in *Oral Performance and Its Context*, ed. C. M. Mackie (Leiden: Brill, 2004) 129–143.

to exploit particular interests and divisions within the citizen body to elicit partisan support.<sup>84</sup> In Demosthenes' words, it is disastrous when the Athenians are divided and conduct politics in small groups—"all should join together in deliberating, speaking and taking action for the common good" (Dem. 2.31); and Pericles justifies his prominence in the running of the city by stressing his devotion to the public good, his integrity and his ability to figure out what the city needs (Thuc. 2.60). The recurrent focus of the orators (and of speakers in general) on unity and on the common good as opposed to individual or sectional interests is a clear feature of Athenian Assembly decision-making, one that chimes in with modern theories of democratic deliberation. Iris Marion Young, for instance, in summarising wide-spread contentions on democratic deliberation, states: "Democratic processes are oriented around discussing [the] common good rather than competing for the promotion of the private good of each." Likewise, Joshua Cohen states that deliberation "carries with it a commitment to advance the common good and to respect individual autonomy."<sup>85</sup>

Another key behaviour typical of (but not exclusive to) the Assembly, also encouraged and even required by the institutional set-up and by its deliberative aims, was considerable shouting

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<sup>84</sup> Thuc. 6.24 makes distinctions between the motivations of the old, the young, the soldiers, the mass in the Assembly (see below pp. 000-00), but no such divisions are ever acknowledged or exploited by the orators, nor by speakers in the historians (see e.g. Pericles in Thuc. 2.60)—the only partial exception is Nicias at Thuc. 6.13.1 who incites the older Assembly-goers not to be shamed down by the young into supporting the Sicilian expedition (see above p. 000-00), but note that this is a speech attempting to reopen a question that had already been decided consensually: Nicias is not trying to build support for his policy by encouraging division; he is rather trying to break down the consensual support for a decision that has already been made. Significantly at Thuc. 6.18 Alcibiades in his reply rebukes him precisely for being divisive and urges all groups to work together (see below pp. 000-00). See J. G. March and J. P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989) 118 for 'integrative' vs. 'aggregative' rhetoric, and Harris, "Rhetoric" as well as Epstein, "Direct" on the kind of arguments used in Athenian political rhetoric and. See also Harris, "How to address," on Assembly etiquette.

<sup>85</sup> I. M. Young, "Communication and the other: beyond deliberative democracy," in *Democracy and Difference*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996) 120-35, at pp. 120-1 (citing previous discussions); Cohen, "Deliberation," 75 (cf. Elster, "Market"). For more problematic accounts of what the common good actually entails, and of the aims of deliberation when the common good is not easily identifiable, see e.g. Jane Mansbridge, "On the contested nature of the public good," in *Private Action and the Public Good*, eds W. W. Powell and E. S. Clemens (New Haven: Yale University Press, 1998) 3-19; Amy Gutman and Dennis Thompson, *Democracy and Disagreement* (Cambridge: Cambridge University Press, 1996); Gutman-Thompson, *Why Deliberative*; Micheline Milot, "Conceptions of the good: challenging the premises of deliberative democracy," in *Deliberative Democracy in Practice*, eds David Kahane et al. (Vancouver: UBC Press, 2010) 21-34. For a model that reconciles self-interest with deliberation see Jane Mansbridge et al., "The place of self-interest in deliberative democracy," *Journal of Political Philosophy* 18/1 (2010) 64-100.

and heckling (*thorybos*), which occurred regularly, and which was perfectly legitimate. Noémie Villacèque has shown in a series of studies how this shouting and heckling was endemic when the Athenians gathered—in the Assembly, in the lawcourts and in the theatre. It created a dialogic exchange between speaker (or performer) and audience and was therefore a key feature of collective deliberation symbolising the sovereignty of the *demos*, as well as a key instrument of their active participation in a context (e.g. an Assembly of over 6,000) in which it would be unthinkable for everyone to speak. Building on the work of Pierre Pontier, she has also shown that oligarchic and philosophical criticism of the Athenians in the Assembly as “spectators of speeches” does not imply passivity, but rather refers precisely to this habit of active and loud engagement, painted negatively by the critics of democracy as *thorybos*, a term which indicates disorder and is connected with other terms such as *ταραχή*, *ἀταξία*, *ἀκοσμία*.<sup>86</sup>

Not only was shouting, heckling and audience (vocal) reaction more generally an important instrument of the *demos*’ effective participation in Assembly deliberation (despite the size of the Athenian Assembly); it was also necessary for its success and for the production of consensus. Speakers were forced to adapt their contributions to the developing feelings of the crowd, as they were expressed vocally (and loudly!) while they were speaking. A short fourth-

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<sup>86</sup> See Villacèque, “Chahut,”; “Θόρυβος,”; *Spectateurs, passim* and particularly 268-77; Pierre Pontier, *Trouble et ordre chez Platon et Xénophon* (Paris: J. Vrin, 2006). Cammack, “Deliberation,” 000-00 attempts to minimise the pervasivity of audience reaction and its connection to deliberation, but her arguments, which rely extensively on lexical searches and lexical analysis, are problematic: it is unclear, for instance, why audience participation should be associated specifically with (rather uncommon) terms such as *κοινολογέομαι*, *ἀνακοινώω* or *διαλέγομαι* for it to indicate a dialogic dynamic—inasmuch as audience reaction is seen to have an effect on speakers (as is shown with reference to Alcidas, Plato, Demosthenes and Aristophanes below, and to many more sources in Villacèque’s work), a dialogic dynamic is clearly recognisable. Cammack also notes that *thorybos* is very rarely associated to the verb *βουλευόμαι*, and when this happens the association is negative; she fails to realise that, as shown Pontier, *thorybos* is not a neutral term that indicates the relevant phenomenon, but rather an evaluative term, associated with chaos and disorder, used precisely to denigrate the *demos*’ active participation in the debate through shouting and heckling. For other discussions of disruption of Assembly (and judicial) procedure through heckling and shouting (*thorybos*), see recently Rosalind Thomas, “Performance, audience participation and the dynamics of fourth-century assembly and jury-courts of Athens,” in *Athenische Demokratie im 4. Jh.—zwischen Modernisierung und Tradition*, ed. Claudia Tiersch (Stuttgart: Steiner, 2016) 89-107, as well as e.g. M. H. Hansen, *Athenian Democracy*, 146; Josiah Ober, *Mass and Elite in Democratic Athens* (Princeton: Princeton University Press, 1989) 138 and particularly Victor Bers, “Dikastic Thorubos,” in Cartledge-Harvey (eds), *Crux*, 1-15 (on judicial *thorybos*) and Judith Tacon, “Ecclesiastic *thorubos*: interventions, interruptions, and popular involvement in the Athenian assembly,” *Greece & Rome* 48 (2001) 173-92 (on *thorybos* in the Assembly).

century treatise *On Writers of Written Speeches* or *On Sophists* by Alcidamas of Elaea makes this clear, and offers an illuminating reflection on the kind of improvised and reactive speeches appropriate for democratic deliberation in Athens, putting into sharp relief the effects of *thorybos* and of the audience's vocal engagement with the debate on the kind of rhetoric that was appropriate in the Assembly.<sup>87</sup> Alcidamas stresses (3) the importance of being able "to speak on the spur of the moment about any given subject competently, and deploy a rapid facility in thought and vocabulary, and show good judgement in keeping pace with the demands of the moment and the wishes of the audience and speak as these demand" (trans. Livingstone). He adds (11): "Wouldn't it be ridiculous, when the herald gives the invitation 'Which of the citizens wishes to address the assembly?', or when the waterclock in the courts has already started, if the speaker went off to his desk to compose and learn a speech?". Alcidamas clearly states (22) that "improvisers can attend to the wishes of their audience better than deliverers of written speeches." He concludes (34) that improvisation is fundamental for "anyone who wants to become a skilled speaker, rather than an adequate composer of speeches; who is more interested in responding well to the occasion than in using words precisely; who would rather have the goodwill of the audience supporting him than their suspicion as his opponent."

Thanks to the real-time (loud) feedback of the audience, speakers also got a sense of whether there was any chance that their particular proposals, lines of argument or the policies they advocated could actually achieve a consensus wide enough to win the day or were on the other hand just being divisive and disruptive of the development of the debate. The choice of a speaker on whether he should submit a proposal depended on the reaction of the audience to his advice: as we have seen, Demosthenes on one occasion refrained from submitting to the

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<sup>87</sup> Alcidamas was a contemporary of Isocrates who spent many years in Athens; see Michael Edwards, "Alcidamas," in *A Companion to Greek Rhetoric*, ed. Ian Worthington (Oxford: Oxford University Press, 2007) 47–57. 2007). A recent book by Niall Livingstone (*Athens: The City as University* (London: Routledge, 2016) 71–99) has drawn attention to this treatise and specifically to his advice on Assembly speaking. See J. V. Muir, *Alcidamas. The Works & Fragments* (London: Bristol Classical Press, 2001) for text, translation and commentary.

*proedroi* a fully-drafted decree (that he showed to Amyntor) precisely because he knew that the debate was not moving in that direction (Aeschin. 2.64-8). And *thorybos* was essential also for the *proedroi* to perform their task properly: as we have seen, the *proedroi* alone could decide when to conclude the debate and what proposal (possibly among many) should be put to the vote. They needed to get a clear sense of the direction of the debate, and of whether a consensus around a proposal was indeed forming. The speeches themselves must have helped: the clustering of a series of speeches in support of a proposal with no one speaking against was good evidence that that proposal had a good chance to be enacted consensually (and not to be opposed at the vote or challenged with a *graphe paranomon*). But by necessity, in a deliberative forum of over 6,000, only a small minority of Assembly-goers could actually take to the platform and express their opinion, which meant that any assessment of a forming consensus based on the speeches only run the risk of being very imperfect. Real-time reaction to the speeches by the audience, in the form of *thorybos*, on the other hand, gave the *proedroi* an even better sense of whether a consensus was actually forming around a proposal, and must have been an important guide for them to decide when to shut down the debate and what proposal to put to the vote.

The institutional drive towards consensus through deliberation had at the same time some problematic effects on the proceedings, which could condition the outcome of the decision-making process and made it often far from optimal. These problematic effects, however, are of the kind which have also been observed and investigated by modern critics and supporters of deliberative democracy—they in fact strengthen, rather than undermine, my contention that Athenian Assembly decision-making was institutionally designed to foster deliberative aims and values towards producing consensus.<sup>88</sup> *Thorybos* in particular, despite being, as we have

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<sup>88</sup> For a nuanced account of criticism levied against deliberative democracy, and for an assessment of its merits, see the synthesis of Chappell, *Deliberative*. For further treatments of deliberative pathologies, see e.g. Daniel Gigone and Reid Hastie, “The common knowledge effect: information sharing and group judgment,” *Journal of Personality and Social Psychology* 65 (1993) 956–74; Sunstein, “Polarization”; Sunstein, *Why Societies*;



seen, instrumental to the institutional drive for deliberation towards consensus, could also potentially discourage deliberators from voicing different or unpopular views, and therefore create conformity—people, as has been observed particularly by Cass Sunstein, sometimes follow others to protect their reputation, in order not to upset people they care about, or when they lack enough information (in which case there is the added danger of informational cascades).<sup>89</sup> Plato provides a striking description of the paralysing effects of *thorybos* on young and inexperienced speakers:

When they meet together, and the world sits down at an assembly, or in a court of law, or a theatre, or a camp, or in any other popular resort, and there is a great uproar, and they praise some things which are being said or done, and blame other things, equally exaggerating both, shouting and clapping their hands, and the echo of the rocks and the place in which they are assembled redoubles the sound of the praise or blame—at such a time will not a young man’s heart, as they say, leap within him? Will any private training enable him to stand firm against the overwhelming flood of popular opinion? Or will he be carried away by the stream? Will he not have the notions of good and evil which the public in general have – he will do as they do, and as they are, such will he be? (Plat. *Resp.* 492b–c, trans. Reeve)

Plato’s account is probably exaggerated—Plato was no friend of Athenian democracy—but Dicaeopolis, the main character of Aristophanes’ *Acharnians*, confirms that this reactive clamouring was considered the prerogative of the *demos* (37–9)—a perfectly legitimate (and

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Sunstein, “Judgements”; Diana Mutz and Paul Martin, “Facilitating communication across lines of political difference,” *American Political Science Review* 95 (2001) 97–114; Tali Mendelberg, “The deliberative citizen: theory and evidence,” *Political Decision-making, Deliberation and Participation* 6 (2002) 151–93 2002; David Ryfe, “Does deliberative democracy work?,” *Annual Review of Political Science* 8 (2005) 49–71 2005; David Stassavage, “Polarization and publicity: rethinking the benefits of deliberative democracy,” *Journal of Politics* 69 (2007) 59–72.

<sup>89</sup> Sunstein, “Polarization”; Sunstein, *Why Societies*; Sunstein, “Judgements”. See also Chappell, *Deliberative*, 63 (and ch. 3 more generally), 104.

intimidating) instrument to voice their displeasure—and we have in fact evidence that speakers were occasionally forced, through *thorybos*, to leave the platform (e.g. Dem. 19.17–18).

But, against any simple dismissal of Athenian Assembly procedure as discouraging, through *thorybos*, the voicing of multiple positions and dissent, the evidence of the actual political speeches and of the *prooimia* in the Demosthenic *corpus*, as well as the analysis of actual Assembly debates (see Section 3) paints a more complex picture. While Demosthenes often (in fact, all the time) makes a point of expressing his worry that the *demos* will not listen to him and will shout him down for voicing unpopular positions, the frequency of his pleas to be heard, and the stress put on the uniqueness and unpopularity of his advice, suggest a more nuanced scenario, in which presenting oneself as an unorthodox speaker in danger of being ignored or forced to stand down for his ideas was in fact a very effective rhetorical strategy, which relied on an understanding of the good Assembly speaker as one not afraid of giving his best advice, however unpopular it may be. After all, it was essential (particularly in the preambles) for a speaker to capture the goodwill of his audience, and not alienate them by endorsing values which were alien from their sense of what constitutes appropriate behaviour. There is a pride in Demosthenes' claims that his advice is unorthodox that seems incompatible with a culture of debate that is averse to voicing genuine dissent. And this cannot be explained away as something unique to Demosthenes, a by-product of his fame and popularity, because at the time of most of the extant political speeches, Demosthenes was a young orator, not a famous politician.

A closer look at some of the *Prooimia* helps us get an even clearer idea of the kind of behaviour that was expected of speakers and deliberators. We get, from a close reading of them, glimpses

of expected Assembly behaviour, and of what the *demos* considered appropriate.<sup>90</sup> Something that emerges quite clearly is that, despite the impression that one may get from the fact that a few complete and articulated speeches have survived (but notice that Assembly speeches are considerably shorter than forensic ones), excessively long speeches were likely to be met with annoyance. The debate had to go on, many people wanted to contribute (and, as we have seen, there was no limit to the number of contributions allowed), and speakers speaking for too long were likely to be met with restlessness, and occasionally heckled. Demosthenes explicitly criticizes those who talk for too long and deprive others of the chance to speak (*Ex.* 21.1): “through the rash actions of some men (ὕπὸ τῆς ἐνίων ἀσελγείας), it is not possible to come forward or speak or in general to utter a word (οὔτε παρελθεῖν οὔτ’ εἰπεῖν οὔθ’ ὅλως λόγου τυχεῖν)!” (trans. Worthington). At *Ex.* 36.2, criticising the bad (and allegedly self-interested) advice of some people, Demosthenes ironically remarks: “You seem to me wise to cut back the time for being cheated to a minimum” (τὸν δὴ τοῦ φενακίζεσθαι χρόνον ὥς εἰς μικρότατον συνάγοντες σωφρονεῖν ἔμοιγε δοκεῖτε). At *Ex.* 29.3 Demosthenes quickly relates to the Assembly the gist of his argument and then, in order not to waste any time, offers: “I have thought it right to begin my own speech by telling you what I think about the matter under consideration in order that if this pleases you I may tell you the rest (ἴνα, ἂν μὲν ὑμῖν ἀρέσκη, καὶ τὰ λοιπὰ διδάσκω); but if not, then I will not trouble you further nor wear myself out (εἰ δὲ μή, μήθ’ ὑμῖν ἐνοχλῶ μήτ’ ἐμαυτὸν κόπτω).” Such passages, far from condemning audience participation and disruption (in the form of shouting and heckling—*thorybos*), appear to encourage it, and precisely for the purposes that we have identified above: to foster actual debate (rather than never-ending speechifying) and to give the speaker (and presumably also other speakers and the *proedroi*) a sense of whether a particular line of argument or policy is meeting with interest and agreement, or should rather be abandoned. It is also clear that going

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<sup>90</sup> For discussions of the preambles which make important points despite not concentrating on democratic deliberation, see in particular Yunis, *Taming*, 247-57; Ian Worthington, *Demosthenes. Speeches 60 and 61, Prologues, Letters* (Austin, TX: University of Texas Press, 2006) 56.

on tangents was very much frowned upon—at Ex. 56.2 Demosthenes states: “gentlemen of Athens, ask the man who steps forward to speak only about the issues under consideration (περὶ αὐτῶν ὧν σκοπεῖτε τὸν παρίοντα λέγειν ἀξιοῦν). For someone may include many other matters in his speech and make many funny remarks, especially if he is a clever speaker.” Yet Demosthenes also makes the point (Ex. 56.3) that although some heckling is appropriate, particularly when someone speaks for too long, the Assembly should normally listen in silence: “perhaps this will seem paradoxical in connection with reducing the length of speeches, [but] you [need to] listen in silence (σιωπῶντας ἀκούειν).” At the same time, he recognizes that “it is only right [for a speaker] to listen and respond to the reaction of the crowd, and let one speech follow another” (ὥς δὲ καὶ δίκαιον ἀκούειν καὶ πρὸς τὸν θόρυβον ἀποκρίνασθαι καὶ λόγον ἐκ λόγου λέγειν, οὐδεὶς ὅστις οὐχὶ δύναται ἄν). This is advice very much in line with that of Alcidas, which once again paints a picture of speaker-audience interaction in the Assembly which is very much dialogical, and which legitimises the (sensible) clamouring of the *demos*.<sup>91</sup> And this advice lays out some basic norms of Assembly etiquette: speakers need to keep it short and to be attentive to the mood and opinions of the other deliberators, as expressed also through murmuring and even heckling and shouting.

Another feature of Assembly debates that emerges from the preambles is that personal abuse and the disrespecting of other speakers was inappropriate, and respectful behaviour was required. This is an informal social norm that emerges again and again in the preambles and is confirmed by the full speeches, which (contrary to what we find in forensic oratory) almost never<sup>92</sup> contain personal attacks:<sup>93</sup> accusing each other of deceiving the people, as well as

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<sup>91</sup> Pace Cammack, “Deliberation,” 000-00.

<sup>92</sup> Only one exception: Dem. 10.70-4.

<sup>93</sup> It is important to realize that the Assembly and the lawcourts had different discursive parameters, and discourse in the two institutional settings was significantly different. See Harris, “How to Address”; E. M. Harris, “Alcibiades, the ancestors, liturgies, and the etiquette of addressing the Athenian assembly,” in *The Art of History Literary Perspectives on Greek and Roman Historiography*, eds Vasileios Liotsakis and Scott Farrington (Berlin: De Gruyter, 2016) 145-56; Matteo Barbato, *Reading Ideology through Myth: Institutions, the Orators and the Past in Democratic Athens* (PhD Diss. Edinburgh, 2017).

questioning the motives of other speakers (Thuc. 3.42), was considered inappropriate.<sup>94</sup> To provide just a couple of examples of normative statements to this effect, at *Ex.* 11 Demosthenes states: “I think all of you know, gentlemen of Athens, that you have come here today not to judge any criminals (ὅτι οὐ κρινούντες ἤκετε τήμερον οὐδένα τῶν ἀδικούντων) but to deliberate about the present situation (ἀλλὰ βουλευσόμενοι περὶ τῶν παρόντων). So then, we must put off all the accusations (δεῖ τοίνυν τὰς μὲν κατηγορίας ὑπερθέσθαι πάσας), and when we put someone on trial let each man then speak before you against whomever he is convinced is guilty. But if someone has something useful or beneficial to say, speak it now (εἰ δέ τις τι χρήσιμον ἢ συμφέρον εἰπεῖν ἔχει, τοῦτο νῦν ἀποφαίνεσθαι). For accusation is for those who find a failing with the past, but deliberation is concerned with the present and future (τὸ δὲ συμβουλεύειν περὶ τῶν παρόντων καὶ γενησομένων προτίθεται). Therefore, the present time is not for ridicule or blame, but for advice (οὐκοῦν οὐ λοιδορίας οὐδὲ μέμψεως ὁ παρὼν καιρός, ἀλλὰ συμβουλῆς εἶναι), it seems to me. To this end, I will try to guard against falling into the trap for which I condemn others, and to advise what I consider the best policy for the present situation” (cf. *Ex.* 20, 31, 52, 53.1-2). Such disrespectful behaviour not only reflects badly on the speaker but is described as damaging to democratic deliberation (*Ex.* 31): “no one is so stupid as to say that it does not harm our interests when speakers quarrel among themselves and accuse each other when no one is on trial” (τὸ γὰρ στασιάζειν πρὸς αὐτοὺς καὶ κατηγορεῖν ἀλλήλων ἄνευ κρίσεως, οὐδεὶς ἐστὶν οὕτως ἀγνώμων ὅστις οὐ φήσειεν ἂν βλάβην εἶναι τοῖς πράγμασιν; cf. *Ex.* 6, 53.1-2).

What we gather from these singular texts is that Assembly etiquette (endorsed by the *demos* in its entirety, as a matter of common sense) required speakers to be respectful to each other; to refrain from mutual accusations, abuse and delegitimization; to stick to the point; to offer

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<sup>94</sup> See e.g. Harris, “How to address”; Christos Kremmydas, “The discourse of deception and characterization in Attic oratory,” *GRBS* 53 (2013) 51-89.

rational advice towards the common good which was explicitly justified in terms of the common good (rather than of self-interest or factional interests); and not to speak for too long, in order to leave room to speak for everyone who wants to contribute to the discussion. In return, they should expect attention, a modicum of silence (albeit interruptions to express general approval or displeasure were perfectly acceptable and even encouraged), and most of all absolute freedom to speak, and to say whatever they wish (*parrhesia*). The Athenians in the Assembly need to be open to good advice and need to be willing to be persuaded by rational arguments. These are social norms aimed at fostering genuine deliberation, in the same way as the institutional setup was aimed at fostering genuine deliberation (see Section 1). The Athenian Assembly may not have been the ideal deliberative forum theorized by modern political theorists, but it clearly strived (however imperfectly) to uphold many of the deliberative values that govern modern theorisations and experiments.<sup>95</sup> Compliance with these discursive and behavioural norms (which aimed to foster deliberation towards consensus), during the debate as well as at the vote (see above pp. 000-00), appear to have depended to a considerable extent with the absolute publicity of the decision-making process: this involved, as we have seen, significant cross-censorship and social pressure, both by the speakers themselves (as the normative statements that we have examined, which were presented as criticism of particular behaviours, show) and by the audience through their clamouring (their *thorybos*), which was meant both to steer the debate in particular directions and to sanction infractions of the relevant norms. These dynamics of social pressure could generate problematic effects in terms of conformity, as we have seen, but at their best, they are a perfect example of what Jon Elster has vividly termed “the civilising force of hypocrisy”: publicity

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<sup>95</sup> Gutmann-Thomson, *Democracy*, ch. 2 stress the “reciprocity” built into a truly deliberative system (cf. Claus Offe and Ulrich Preuss, “Democracy institutions and moral resources,” in *Political Theory Today*, ed. David Held (Cambridge: Cambridge University Press, 1991) 143-71, here p. 170). See for classic accounts of the differences between deliberation and various forms of aggregation and bargaining Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, MA: Harvard University Press, 1989) 45. Owen-Smith, “Survey,” 228-30 talk of a “deliberative stance.” Cf. Denis Thompson, “Deliberative democratic theory and empirical political science,” *Annual Review of Political Science* 11 (2008) 497-520 for a review of theoretical and empirical approaches.

creates social pressure to abide by widely-shared standards of deliberative discourse and behaviour, which “filter” what a speaker feels he is able to say or propose: if his values or motivations do not align with these standards, he is pressured nevertheless to embrace them hypocritically in deliberation. In turn, by a process of cognitive dissonance reduction, the repeated performance of speech and behaviour which abides by those widely shared deliberative norms and values, in the long run, “civilises” even the actors that were initially hypocritical: these in the end come actually to embrace those deliberative norms and values—to adopt, that is, a “deliberative stance.”<sup>96</sup>

The preambles allow us to dig even deeper, and gauge how such values (the normative requirements of Assembly deliberation) were justified—what goods they were believed to contribute to the city. These goods were quite clearly stability and, most of all, legitimacy for the decisions taken. Consider *Ex. 29*: here Demosthenes is trying to convince the *demos* to reconsider a position that is moving fast towards consensus—he is speaking against a forming consensus, attempting to reverse it. Demosthenes starts by highlighting a problem: there is often somebody who attempts to reopen a matter that has already been decided. This is a problem because it can cause political immobility, or a fickleness in the *demos*’ decisions that is often criticized by oligarchic-leaning critics of democracy. There was in fact no rule in Athens against deliberating anew on a matter that had already been decided.<sup>97</sup> But Demosthenes does not suggest that the antidote to this problem is prohibiting the reconsideration of decisions already made. He remarks instead: “If they did this [trying to re-

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<sup>96</sup> See Elster, “Deliberation and constitution” for a full account of the “civilising force of hypocrisy”, and Elster, *Secrecy and Publicity*, for a wider discussion of secrecy and publicity. Owen-Smith, “Survey,” 228-30 use the expression “deliberative stance” and describes it as “a relation to others as equals engaged in the mutual exchange of reasons oriented *as if* to reaching a shared practical judgment.”

<sup>97</sup> See below pp. 000-00 for an example and some discussion. See also Yunis, *Taming*, 252-3 for a discussion of this passage.

discuss something already decided] after you had let them speak during your earlier deliberations, it would be right to censure them if they insisted on speaking again for the proposals that had been defeated (εἰ μὲν οὖν ἀποδόντων ὑμῶν λόγον αὐτοῖς, ὅτ' ἐβουλεύεσθε, τοῦτ' ἐποιοῦν, τούτων ἂν ἦν ἄξιον κατηγορεῖν, εἰ περὶ ὧν ἥττηντ' ἐβιάζοντο πάλιν λέγειν). But there is nothing astonishing if today they want to speak about things which at that time you would not listen to (νῦν δὲ τούτους μὲν οὐδέν ἐστ' ἄτοπον εἰπεῖν βουλευθῆναι ταῦθ' ἃ τότε οὐχ ὑπεμείνατ' ἀκοῦσαι), and someone might rightly blame you, gentlemen of Athens, for, whenever you deliberate about something, not allowing each man to say what is on his mind, but if some speakers win you over, you would not listen to the other (ὅτι ὁπότεν περὶ τοῦ βουλευήσθε, οὐκ ἔατε λέγειν ἕκαστον ἃ γινώσκει, ἀλλ' ἂν ἕτεροι τῷ λόγῳ προλάβωσιν ὑμᾶς, οὐδέν ἂν τῶν ἐτέρων ἀκούσαιτε).” This is a remarkable passage, because it openly justifies the deliberative ideal of giving everyone equal right to speak and to voice whatever position in terms of legitimacy and stability: only decisions that have been made collectively, through deliberation that gave room to everyone and to all positions, have a claim to being final and binding for everyone. The strength and validity of the decisions of the *demos* depends on the quality of the deliberation that led to them, and not on the vote itself.<sup>98</sup> This link between deliberation and legitimacy, so clearly expressed by Demosthenes, is also one of the central tenets of modern deliberative democracy theorisations.<sup>99</sup>

The same argument is found again in *Ex. 35* and used to make the opposite case: that a matter decided should not be re-discussed. This, once again, is not justified generically by appealing

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<sup>98</sup> Cf. *Dem. Ex. 34*, where Demosthenes claims that he should be heard now, because, were he not to be allowed to express his opinion, then he would feel compelled to reopen the discussion next time, and question the decision made in the current Assembly.

<sup>99</sup> Legitimacy is stressed as the main product of deliberative democracy by many (mostly procedural) accounts. See e.g. Cohen, “Deliberation”; Bernard Manin, “Volonté”; “On legitimacy and political deliberation,” *Political Theory* 15/3 (1987) 338–68, here p. 360; Seyla Benhabib, “Toward a deliberative model of democratic legitimacy,” in *Democracy*, ed. Benhabib, 67–94, here p. 68; John Dryzek, “Legitimacy and economy in deliberative democracy,” *Political Theory*, 29/5 (2001) 651–69, here p. 651; Fishkin-Mansbridge, “Introduction.” For a discussion of legitimacy and deliberative democracy (and their problems) in the real world, see John Parkinson, *Deliberating in the Real World: Problems of Legitimacy in Deliberative Democracy* (Oxford: Oxford University Press, 2006) See also the Conclusions.



to the importance of stable and reliable decisions, or to the finality of the vote. On the contrary, Demosthenes states: “Gentlemen of Athens, the right course was that each man should have persuaded you to do what he thought best at the time when you were first deliberating on these matters (ἔδει μὲν, ὃ ἄνδρες Ἀθηναῖοι, καὶ δίκαιον ἦν τότε πείθειν ὑμᾶς ὅ τι ἄριστον ἕκαστος ἡγεῖτο, ὅτ’ ἐβουλευέσθε τὸ πρῶτον περὶ τούτων), in order to avoid the two most destructive outcomes for the city, namely, that none of your decisions should be final and that by changing your minds you should convict yourselves of lunacy (μήτε πέρας μηδὲν εἶχεν τῶν ὑμῖν δοξάντων, παρανοίας θ’ ὑμεῖς κατεγιγνώσκεθ’ ὑμῶν αὐτῶν μεταβουλευόμενοι). Since some men who then kept quiet are now being critical (ἐπειδὴ δὲ σιωπήσαντες τότε νῦν ἐπιτιμῶσί τινες), I want to say a few things to them. [...] they could have presented their views when you were deliberating, but instead chose to criticize after the decisions were made (εἰ γὰρ ἐξὸν παραινεῖν ὅταν σκοπῇτε, βεβουλευμένων κατηγορεῖν αἰροῦνται).” The argument that a decision should not be reconsidered is justified with reference to the quality of the deliberation that led to it: everyone had a chance to speak freely, and to say whatever he wanted; because the deliberation was open and respectful, the decision is fully legitimate, and should not be questioned. Once again, it is not the vote that makes the decision binding, not even the fact that the vote was perhaps unanimous, which would indicate consensus. Legitimacy depends on the quality of deliberation.<sup>100</sup>

To contextualize this concern with the legitimacy and stability of democratic decisions, and the democratic solution that legitimacy derives from deliberation, it is worth turning here to a famous passage of Ps.-Xenophon about the trustworthiness of the decisions of democracies vis-à-vis oligarchies (*Ath. Pol.* 2.17): “whatever agreements the populace makes can be repudiated by referring the blame to the one who spoke or took the vote, while the others

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<sup>100</sup> Cf. particularly Manin, “Volonté,” 19-20 and *passim* for deliberation rather than unanimity as the best, and most viable, normative grounds on which to base a theory of legitimacy. The passages discussed in this section appear to make, albeit more pragmatically, a very similar point.

declare that they were absent or did not approve of the agreement made in the full assembly.” This is of course an extreme case, and Ps.-Xenophon is not known to be terribly objective when it comes to Athenian democracy, but the question of whether a decision of the Assembly is binding on those who were not present or on those who were against it is (at least theoretically) a significant one. At a deeper level, this problem is connected to that of the integrity of the community, with the focus in our sources on *homonoia* (“concord”, “same-mindedness”, “consensus”), and with the omnipresent fear of *stasis* (civil war), originated by irreconcilable differences among citizens that undermine and ultimately dissolve the unity of the city. Jane Manbridge observes that, when a community relies exclusively on majority rule (as opposed to consensus and deliberation), “voting symbolizes, reinforces and institutionalizes division [...] Voting produces a result that excludes the minority, [...] while a decision by consensus includes everyone, reinforcing the unity of the group.” As division in the vote institutionalises and reinforces the division of the community, for the Greeks, in Cartledge’s words, “every vote on a major policy issue threatened the outbreak of *stasis*,” and “it was because of this inherent danger of the division of a split vote turning into the division of civil war that the governing political ideal on both main sides of the political divide was always *homonoia*.”<sup>101</sup> For it takes a very cohesive community to split repeatedly on major policy decisions and yet never to question its own unity and integrity. Unless, that is, what keeps the community together is not (or no longer) a shared will to be a community which underpins whatever level of state coercion, but rather sheer and illegitimate coercion—the possibility of the enforcement of majority decisions by violent means, without the legitimacy to back it. The Athenian (however imperfect) antidote to these dangers—on the one hand, division turning into the disintegration of the political community, on the other, instability and illegitimacy—was democratic

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<sup>101</sup> Mansbridge, *Beyond*, 9-10; Paul Cartledge, *Spartan Elections* (London: Duckworth, 2001) 166; “Greek political thought: the historical context,” in *The Cambridge History of Greek and Roman Political Thought*, eds. Christophen Rowe and Malcolm Schofield (Cambridge: Cambridge University Press, 2005) 19-20; cf. Loraux, *Divided*, 101 and Vincent Azoulay, “Repolitiser la cité grecque, trente ans après,” *Annales HSS* 69/3 (2014) 689-719. For a more thorough discussion of the connection in Athens between the issues of *homonoia* and *stasis*, and democratic deliberation towards consensus, see Canevaro, “Majority,” 000-00, with more bibliography.

deliberation, institutionally enabled and strengthened by shared values of equal access and respect. Only through effective deliberation decisions could be reached that were both inclusive (and often consensual) and genuinely legitimate. In the next section I shall discuss in detail a specific instance of deliberation, its unfolding, and its effects.

### 3. Athenian democratic deliberation towards consensus in practice

Athens is by far the best documented of all Greek city states. Epigraphical evidence, treatises such as the Aristotelian *Constitution of the Athenians*, forensic and Assembly speeches of the Attic orators, and a variety of other sources, allow us to reconstruct the details of its institutional machinery and of the rules that governed it (and Section 1 provides a sample of the results of such investigations). At the same time, the speeches of the Attic orators show us the behaviour of individual (admittedly high-performing) Athenians within these institutions, the values that governed their behaviour, and their expectations (and Section 2 is an exercise in interpreting this evidence). The extant public inscriptions, which report laws and decrees, also provide us with a relatively large sample of actual decisions made by the Athenian Council and Assembly, allowing us to study their performance in facing day-to-day issues as well as in addressing long-term concerns.

What is relatively less well-documented is the detail of the Assembly debates—the unfolding of actual deliberation in the Assembly. We have, as we have seen, good evidence of unanimous or quasi-unanimous votes, and close-to-no evidence of narrow votes. But if, as my previous discussion has argued, the centre of the Assembly's duties was collective democratic deliberation, rather than voting and deciding *per se*, then what we should like to see is Assembly debates unfolding from beginning to end. Regrettably the evidence for such debates is scanty and limited to patchy and incomplete accounts primarily in Thucydides' *History of*

the *Peloponnesian War* and in Xenophon's *Hellenica*, and also in a few speeches of Aeschines and Demosthenes (mainly Dem. 18 and 19, and Aeschin. 2 and 3). Not only are these accounts patchy, they are also skewed towards speech-making and the responsibilities of the main politicians, and often biased. Thucydides' and Xenophon's bias derives from their fundamental mistrust for democracy, understood essentially as mob rule<sup>102</sup>—this leads them to presenting the speeches of some prominent leaders and demagogues as dominating, and to overshadowing wider participation in deliberation. The problem with the orators' accounts is not so much bias as focalisation: the few accounts of Assembly debates they provide are part of forensic speeches composed to attack or defend a particular individual, and therefore they concentrate on the words and the performance of that individual, rather than on the wider deliberative context in which he acted.<sup>103</sup>

Despite the incompleteness, the biases and the skewed focus of these accounts, we can still see glimpses of the Assembly as a lively deliberative forum in which a plurality of individuals (and not always the same ones) spoke, expressed their opinions and offered their advice. After the herald asked the question “Who wishes to speak?”, many did indeed speak. Thucydides provides plenty of evidence of this, despite his tendency to reduce debates to one or two

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<sup>102</sup> For Thucydides' outlook, critical of democracy or in any case very much concerned with pointing out the failings of democratic decision-making, see e.g. Josiah Ober, *Political Dissent*, 52-121; Hartmut Leppin, *Thukydides und die Verfassung der Polis: ein Beitrag zur politischen Ideengeschichte des 5. Jahrhunderts v. Chr.* (Berlin: Akademie Verlag, 1999); Kurt Raaflaub, “Thucydides on democracy and oligarchy,” in *Brill's Companion to Thucydides*, eds Antonios Rengakos and Antonis Tsamakis (Leiden: Brill, 2006) 189-224. Virginia Hunter, “Thucydides and the sociology of the crowd,” *The Classical Journal* 84/1 (1988) 17-30 shows that Thucydides often approaches the *demos* in the Assembly as a crowd or a mob. For Xenophon's political outlook see in particular Jean Luccioni, *Les idées politiques et sociales de Xénophon* (Paris: Ophrys, 1947); Vivienne Gray, “Xenophon and Isocrates,” in *The Cambridge History of Greek and Roman Political Thought*, eds Christopher Rowe and Malcolm Schofield (Cambridge: Cambridge University Press, 2000) 142-54; 2000; Sarah B. Ferrario, *Historical Agency and the 'Great Man' in Classical Greece* (Cambridge: Cambridge University Press, 2016); Pontier, *Trouble*. There is a modern trend towards painting a less ‘undemocratic’ Xenophon (e.g. Gray, “Le Socrate de Xénophon et la démocratie”, *Les études philosophiques* 2 (2004) 141-76; Ron Kroeker, “Xenophon as a critic of the Athenian democracy,” *History of Political Thought* 30/2 (2009) 197-228), but it does not underplay his fundamental criticism of Athenian democratic practice and decision-making.

<sup>103</sup> This is most prominently the case in the opposing speeches pronounced by Aeschines and Demosthenes in the trials on the false embassy and on the crown: the first trial concentrated on Aeschines' performance—whether he had been bribed to betray the Athenians—and the second on Demosthenes' merits and responsibilities as an adviser of the *demos* throughout his career.

speeches by top political actors. A good example is Thuc. 1.139.3-4, where Thucydides introduces the Assembly of 431 BCE that decided the outbreak of the Peloponnesian War. This followed a second embassy from the Spartans, which intimated that the Athenians should raise the siege of Potidea, respect the independence of Aegina and most importantly revoke the Megarian decree, or face war. Thucydides writes that, in reaction to the Spartan ultimatum, “The Athenians called an assembly and opened the debate, deciding to discuss the whole issue once and for all and give their final answer. Many came forward to speak and opinions were ranged on both sides—for war, and for the repeal of the Megarian decree to remove an impediment to peace. Among the speakers was Pericles the son of Xanthippus, the leading Athenian at that time and a man of the greatest ability both with words and in action” (trans. Hammond). Thucydides then proceeds to report a rather long version of Pericles’ speech, and states that the Athenians endorsed his proposals. The impression is of a top politician telling the Assembly what to do, and the Assembly agreeing promptly. This is Thucydides’ line, according to which Athens was well governed only when democracy was restrained by the dominance of the “first man” (*protos aner*), Pericles, who effectively ran it.<sup>104</sup> But the language of the passage is particularly interesting: what happens in the Assembly is, literally, that the Athenians “set out opinions before themselves” (γνώμας σφίσιν αὐτοῖς προυτίθεσαν), that is, before each other. The debate is represented, in line with what we have established above, as an open and contentious exchange of opinions, to establish once and for all what is to be done: go to war or abide by Sparta’s demands. And Thucydides makes clear that many, not just a couple of top politicians, came forward and spoke for both options on the table (καὶ παριόντες ἄλλοι τε πολλοὶ ἔλεγον ἐπ’ ἀμφοτέρα γιγνόμενοι ταῖς γνώμας). Despite

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<sup>104</sup> For recent discussions of Thucydides’ representation of democratic decision-making as the relationship between leaders and crowds (with previous bibliography) see e.g. Antonis Tsamakis, “Leaders, crowds, and the power of the image: political communication in Thucydides,” in *Brill’s Companion*, eds Rengakos-Tsamakis, 161-88; Ferrario, *Historical*, 104-78, esp. 106-43, who (pp. 106-20) also provides a good analysis of Pericles’ place in Thucydides’ narrative, and Thucydides’ understanding of his leadership. For an excellent overall treatment of Pericles, see Vincent Azoulay, *Pericles of Athens* (Princeton: Princeton University Press, 2014), with pp. 137-56 for his leadership and Thucydides’ account.

his focus on top politicians duelling and leading the *demos*, Thucydides, has to admit that Pericles was not in fact the only person who spoke—there was extensive debate, and many contributed to the discussion, with widely divergent advice and perspectives. It is also notable that, as far as we can tell from the text, despite the disagreements in the debate, in the end the Athenians all agreed on one proposal, and voted accordingly, consensually (Thuc. 1.145: οἱ δὲ Ἀθηναῖοι νομίσαντες ἄριστα σφίσι παραινεῖν αὐτὸν ἐψηφίσαντο ἃ ἐκέλευε).

Similar remarks about Assembly debates that Thucydides then proceeds to reduce to one or two prominent speeches are very common throughout the *History of the Peloponnesian War*. At Thuc. 3.36.6, for instance, the second Assembly on the fate of the Mytilenaeans is reduced to two contrasting speeches by Cleon and Diodotus, yet the debate is introduced with the words “An assembly was immediately called, and various speakers expressed their opinions”. Once again, the summoning of the Assembly (καταστάσης δ’ εὐθὺς ἐκκλησίας) produces a debate with a variety of opinions (ἄλλαι τε γνώμαι ἀφ’ ἐκάστων ἐλέγοντο) expressed by a number of speakers in a number of contributions, and Cleon and Diodotus are just two of them. And when Diodotus is introduced by Thucydides (3.41), he is the man “who in the previous assembly too had spoken most strongly against the execution of the Mytilenaeans” (ὅσπερ καὶ ἐν τῇ προτέρᾳ ἐκκλησίᾳ ἀντέλεγε μάλιστα μὴ ἀποκτεῖναι Μυτιληναίους). The fact that he had spoken “most strongly” implies that also at the previous Assembly many others had expressed that position.<sup>105</sup>

When, in 411 BCE, a group of oligarchic conspirators takes control of Athens while most of the *demos* is out with the fleet, and abolishes the democracy,<sup>106</sup> Thucydides (8.66.1-2) remarks: “There were still even so meetings of the assembly and of the council (that is, the council of

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<sup>105</sup> For a discussion of this passage, see Simon Hornblower, *Commentary... Books I-III*, 419-20, and 420-41 for the whole debate. On this passage, see in particular Harris, “How to Address.” See also above pp. 000-00.

<sup>106</sup> For the revolution of the Four Hundred, a good starting point is the account in Rhodes, *History*, 168-75, with key bibliographical items at pp. 181-2.

five hundred chosen by lot): but the agenda was controlled by the clique of conspirators, all speakers came from their number, and their speeches were vetted in advance. No one else now would express any contrary view, as there was general fear at what they saw as the extent of the conspiracy. If anyone did speak up, he quickly met his death in some convenient way.” The formulation here is telling: it stresses how the Athenians’ decision-making had changed, despite the superficial continuity of Assembly and Council meetings, by noting that the agenda was now arranged by the conspirators (ἐβούλευον δὲ οὐδὲν ὅτι μὴ τοῖς ξυνεστῶσι δοκοίη) and that who should speak, as well as what they should say, was also pre-arranged by them (ἀλλὰ καὶ οἱ λέγοντες ἐκ τούτων ἦσαν καὶ τὰ ῥηθησόμενα πρότερον αὐτοῖς πρὸς κεπτο). The clear implication is that in normal circumstances the agenda was arranged by the Council and the *prytaneis* openly and that a variety of people spoke, and all speakers said whatever they wanted to say, with complete freedom, and expressing a variety of diverging views.<sup>107</sup>

There has been a tendency in scholarship to argue, on the basis particularly of Thucydides’ focus on prominent politicians and their speeches, that speaking in the Assembly and proposing decrees was in Athens the remit of a political elite of wealth<sup>108</sup>—Cammack has gone in recent contributions so far as to deny that there was really any real debate in the Assembly, but rather just speeches and proposals by a semi-professional class of *rhetores* on which the *demos* simply voted, without real participation or (external) deliberation.<sup>109</sup> But these passages show that

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<sup>107</sup> For a discussion of this passage see Simon Hornblower, *A Commentary on Thucydides: Volume III: Books 5.25-8.109* (Oxford: Oxford University Press, 2008) 944-7. Thucydides’ account here is possibly quite tendentious (see E. M. Harris, “The constitution of the Five Thousand,” *Harvard Studies in Classical Philology* 93 (1990) 243–280), but its implications for normal democratic deliberation are clear.

<sup>108</sup> This has been for a long time the standard position; see e.g. Hansen, *Democracy*, 144, as well as e.g. Nicole Loraux, “Aux origines de la démocratie. Sur la ‘transparence’ démocratique,” *Raison présente*, 49 (1979) 3-13, at 5; Donald Kagan, *Pericles of Athens and the Birth of Democracy* (New York: Free Press Kaiser, 1991); Lisa Kallet-Marx, “Money talks: rhetor, demos, and resources of the Athenian empire,” in *Ritual, Finance, Politics: Athenian Democratic Accounts Presented to David Lewis*, eds Robin Osborne and Simon Hornblower (Oxford: Clarendon Press, 1994) 227–52; R. W. Wallace, “The power to speak – and not to listen – in ancient Athens,” in *Free Speech in Classical Antiquity*, eds Ineke Sluiter and R. M. Rosen (Leiden: Brill, 2004) 221-232; Alfonso Moreno, *Feeding the Democracy: The Athenian grain supply in the fifth and fourth centuries B.C.* (Oxford: Oxford University Press, 2008); Villacèque, “*Thorybos*”, 301; *Spectateurs, passim* (who tends to limit the participation of the masses to *thorybos*, rather than extending it to actual interventions)

<sup>109</sup> Cammack, “Aristotle”; “Democratic significance”; “Deliberation”.

even in Thucydides, if we read between the lines, the implication is rather one of lively debate with a multiplicity of participants offering their advice. And this scenario is in fact confirmed, for the fourth century, by surveys of the proposers of decrees and laws. Hansen conducted a survey of fourth-century decree and law proposers attested in inscriptions, and found a remarkably high number of different proposers, and the vast majority of these are attested as proposers only once. He also found that only around 30% of these proposers belonged to the liturgical class—to the wealthy.<sup>110</sup> Stephen Lambert finds, in his more up-to-date survey and analysis of proposers for the period 354/3-322/1, 54 different proposers, 43 of whom are attested only once and 8 only twice (three more proposed respectively 3, 8 and 10 measures). He also emphasizes the variety of their backgrounds.<sup>111</sup> Peter Liddel has now conducted a parallel survey and analysis of decree proposers attested in the literary sources for the whole fourth century, and has also found that, despite the bias of the literary sources towards famous politicians, the vast majority of attested proposers—more than 70%—are attested only once.<sup>112</sup> And Claire Taylor has demonstrated the breath of political participation from the non-wealthy, as well as from those from the non-urban demes—decree proposers in the fourth century come from all over Attica.<sup>113</sup>

To cite Lambert, “statistics for proposers of laws and decrees do not perhaps indicate that the ordinary Athenian had as much political influence as someone of wealth and prominence; but

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<sup>110</sup> Hansen, *Ecclesia II*, 25-72 and 93-127. Lambert, *Inscribed*, 190 provides the percentage for the period 354/3-322/1 (on the basis of a more extensive corpus), and finds that 38% of proposers were members of the liturgical class. Hansen, however, does not draw from these figures the conclusion that there was indeed wide participation and the Assembly was not dominated by a political elite, but attempts to explain away these results. Lambert, *Inscribed*, 171-226) convincingly challenges his analysis.

<sup>111</sup> Lambert, *Inscribed*, 184 and *passim* 171-226. Peter Liddel, *Decrees of fourth-century Athens (403/2-322/1 BC)* (Cambridge: Cambridge University Press, forthcoming) Volume 2, Appendix 1 provides an up-to-date list of proposers for the whole fourth century.

<sup>112</sup> See now the monumental Liddel, *Decrees* for a ground-breaking commented collection of all fourth-century decrees attested in the literary sources, with commentary and a companion monograph on decree-making.

<sup>113</sup> Claire Taylor, “From the whole citizen body? The sociology of election and lot in Athenian democracy,” *Hesperia* 76/2 (2007) 323-46; “A new political world,” in *The Anatomy of Cultural Revolution. Athens 430-380 BC*, ed. Robin Osborne (Cambridge: Cambridge University Press, 2008) 72-90. See now also P. J. Rhodes, “Demagogues and *demos* in Athens,” *Polis* 33 (2016) 243-64 against the idea that only top politicians spoke and that Assembly debates were characterized by a series of duels, arguing instead for wider active participation.



it does suggest that, whether wealthy or not, it was an essential aspect of Athenian democratic culture that political power and influence should be spread between multiple individuals.”<sup>114</sup> Of course, proposing decrees is not the same as participating in the debates of the Assembly by simply speaking, but that wide participation was the norm also in that case is strongly suggested, for instance, by Socrates’ remark (Plat. *Prot.* 319d) that, when the complex issue of the financial administration of the city (*διοικησις*) is to be debated, ‘he who rises to give advice may equally be a carpenter, a bronzesmith, a cobbler, a merchant, a shipper, wealthy, poor, well-bred, ill-bred...’ And this is also the picture painted by Aeschines (3.220) in polemic with Demosthenes:

“But you criticize me for not coming before the people continually, but at intervals. And you think we won’t notice that you are borrowing this requirement not from democracy but from a different constitution. In oligarchies it is not the volunteer who speaks but the man with power, while in democracies it is the volunteer, at a time of his choosing. And speaking at intervals is the mark of a man who engages in politics at the right occasion and when it is beneficial, while missing not a single day is the mark of a professional and a hireling.” (Tr. Carey)

This picture of widespread participation by a variety of individuals from a variety of backgrounds is in fact consistent also with that painted by Ober of a well-networked polity which relied for knowledge production and aggregation on the active participation of a wide number of individuals from all over Attica.<sup>115</sup>

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<sup>114</sup> Lambert, *Inscribed*, 202-3.

<sup>115</sup> Ober, *Democracy*, 118-67, particularly 161-67.

The few passages from Thucydides that I discussed confirm the impression given by the Demosthenic *Prooimia* that the expression of a plurality of positions, by a plurality of speakers, was encouraged and requested—the legitimacy (and stability) of the decisions made in the end depended on it. And this impression is in turn confirmed by the epigraphical and literary evidence of Athenian fourth-century decrees. This much we can say with some confidence. Very few Assembly debates, however, are reported by Thucydides and by other sources in enough detail to allow us to follow how they unfolded. In the remaining part of this section, I shall concentrate on one example of which the sources give us a relatively finer-grained account. This example concerns a very controversial decision, in a high-risk and high-stake situation, and most scholars would agree that the Athenians did in fact make a (disastrously) bad decision. Yet, despite this, and despite the attempt by Thucydides to present the run up to the decision as the triumph of mob rule, irrationality and politicking by the main actors involved, what we see is the Athenians being actively engaged in the process of democratic deliberation, being remarkably open to changing their minds, to revising their initial preferences, to develop a solution together, and ultimately to reaching some form of consensus or compromise in spite of the initial sharp divisions, so that the decision may be considered legitimate by all, and all may spend their best effort towards its implementation.

### 3.1 The debate(s) on the Sicilian expedition

My example is the most challenging, and also (at first sight) the most counterintuitive choice for investigating the quality of Athenian democratic deliberation in the Assembly. This is the series of Assembly debates that led to the decision, in 415 BCE, to send a huge expedition to attempt the conquest of Sicily. The campaign resulted in a devastating Athenian defeat and in the annihilation of the whole expeditionary force. Athens was substantially weakened as a result, which played a part in the resuming of the hostilities with Sparta, and ultimately in the

Athenian defeat of 405 BCE.<sup>116</sup> Thucydides explicitly presents it as the apex of Athenian irrationality and ambition, and his whole narrative is to a large extent teleological—it is coloured at all points by the reality of the final disaster. The underlying intention is both to explain it and to describe it as the inevitable result of the irrationality of the *demos*.<sup>117</sup> He significantly opens book 6, dedicated to the expedition, with the words: “In the same winter [416 BCE] the Athenians conceived a renewed ambition to subjugate Sicily, hoping to achieve this with a naval expedition on a greater scale than those under Laches and Eurymedon. Most Athenians were ignorant of the extent of the island and the size of its population (ἄπειροι οἱ πολλοὶ ὄντες τοῦ μεγέθους τῆς νήσου καὶ τῶν ἐνοικούντων τοῦ πλήθους), both Greek and barbarian, and had no idea that they were undertaking a war almost as formidable as their war against the Peloponnesians’ (Thuc. 6.1; trans. Hammond). In a way, the decision to send an expedition to Sicily seems a good parallel for the Brexit vote: direct democracy resulting in an ill-advised decision, with potential disastrous consequences, and fuelled by ignorance, irrationality and the self-interested demagoguery of unscrupulous leaders. Yet it will become clear that these similarities are deceptive, and while one is a case of plebiscitary direct democracy unaffected by democratic deliberation, the other can be explained as the result (however misguided) of democratic deliberation.

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<sup>116</sup> The bibliography on the Sicilian expedition is immense and virtually unmanageable. A good place to start is Rhodes 2010: 131–49, which is both accessible and fairly detailed. For more detail and wider discussions (and different approaches) see e.g. Donald Kagan, *The Peace of Nicias and the Sicilian Expedition* (Ithaca, NY: Cornell University Press, 1981); Lisa Kallet, *Money and the Corrosion of Power in Thucydides: The Sicilian Expedition and Its Aftermath* (Berkeley-Los Angeles: University of California Press, 2002); Hans-Peter Stahl, *Thucydides: Man's Place in History* (Swansea: The Classical Press of Wales, 2003) 173–89; Tim Rood, *Thucydides: Narrative and Explanation* (Oxford: Oxford University Press, 2004) 159–82; Hornblower, *Volume III* (which provides a detailed commentary; see Dover in Arnold W. Gomme, Antony Andrewes and Kenneth J. Dover, (1970), *A Historical Commentary on Thucydides*, voll. 4 (Oxford: Oxford University Press, 1970) for the most important commentary before Hornblower's), all with plenty of bibliography.

<sup>117</sup> See e.g. Simon Hornblower, *Thucydides and Pindar: Historical Narrative and the World of Epinikian Poetry* (Oxford: Oxford University Press, 2004) who compares the expedition to tragedy. For the centrality of irrational hope and ignorance as motivation in Thucydides' account of the Sicilian expedition, see e.g. Stahl, *Thucydides*, 173–89. Cf. Josiah Ober, “Thucydides as prospect theorist,” *Polis* 31 (2014) 206–32 who reads Thucydides' account of the decisions that led to the Sicilian expedition (and the interplay of uncertainty and irrationality) in the light of prospect theory.

It is not my intention to investigate here the expedition, or Thucydides' authorial intention. All I am interested in is describing, against the grain of Thucydides' agenda, what happened in the Assembly at the various meetings that led to the expedition.<sup>118</sup> Everything started with an embassy from a Sicilian city allied to the Athenians, Egesta. For various reasons, Egesta found itself at war with the much more powerful Syracuse, strangled by land and by sea, after Syracuse had already expelled the Leontinians, another ally of the Athenians. Egesta sent ambassadors to Athens, denouncing Syracuse, asking for Athens' help, and pointing out that if Sicily became entirely controlled by Syracuse, there was the risk that they would join the Peloponnesians against Athens (Thuc. 6.6). Thucydides describes the Athenian intervention as an irrational choice due to ignorance and unbridled ambition, yet the more minute information he provides paints a rather different picture, of the Athenians being very cautious and keen to gather more information.

Thucydides reports that the Egestan ambassadors presented the same arguments Assembly after Assembly, and many Athenians intervened in the debate to express their support for them, and reiterate those very arguments (ὧν ἀκούοντες οἱ Ἀθηναῖοι ἐν ταῖς ἐκκλησίαις τῶν τε Ἐγεσταίων πολλάκις λεγόντων καὶ τῶν ξυναγορευόντων αὐτοῖς). Yet, Assembly after Assembly, nothing was done—the Athenians kept having that item on their agenda, kept discussing it, but did not come to a hasty decision. We may suppose from this account that, at the beginning of these events, the preferences of some Athenians—those who repeated the arguments of the ambassadors—must have been to intervene in Sicily straightaway. Some others must have spoken against this hypothesis—probably Nicias, who remains against it to the very end, as we shall see. But a significant number of Athenians, apparently, did not have strong preferences but were resistant to a hasty intervention. Thucydides does not provide

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<sup>118</sup> See Hornblower, *Volume III*, 5-12 and 299-367 for a detailed commentary of the relevant passages, and full bibliographical information.

details of these debates, but it is clear that no decision was rushed, no vote taken by simple majority rule on a proposal that did not appear to command universal consensus, and the decision, time after time, was to deliberate further. For a while, then, deliberation did not occasion significant changes in people's preferences. In the long run, however, a decision did emerge, and was enshrined in a decree: when the Athenians did come to a decision, their decision was in fact to collect more information—they agreed that they did not know enough about the Sicilian situation and needed more information to make an actual decision. They decided to send “a preliminary board of inquiry to Egesta to establish whether they did have the funds they claimed in their treasury and their temples, and also to ascertain the state of the war with Selinus” (ἐψηφίσαντο πρέσβεις πέμψαι πρῶτον ἐς τὴν Ἑγεσταν περί τε τῶν χρημάτων σκευομένους εἰ ὑπάρχει, ὥσπερ φασίν, ἐν τῷ κοινῷ καὶ ἐν τοῖς ἱεροῖς, καὶ τὰ τοῦ πολέμου ἅμα πρὸς τοὺς Σελινουντίους ἐν ὅτῳ ἐστὶν εἰσομένους).

If we had to interpret the scanty information provided by Thucydides, we may venture that protracted deliberation made it clear to the vast majority of the Athenians, originally resistant to the idea of the expedition but not prejudicially opposed to it, that more information was needed. Those who were already for and against the expedition must have also supported this line, as a compromise solution. Those against the expedition were happy to postpone the decision—for envoys to reach Sicily, proceed with their investigation, and come back, it would have taken several months—and hopeful that more information would discourage their fellow Athenians. Those in favour must have seen this as a first step forward, an initial imperfect undertaking, and must have hoped that the envoys would come back with information that would spur the Athenians to act. There is no trace in the text that there was any dissent about this decision to collect more information (οἱ μὲν πρέσβεις τῶν Ἀθηναίων ἀπεστάλησαν ἐς τὴν Σικελίαν), and the most likely scenario is one of a rather sensible consensual decision, which attempted to remedy the information deficit. An imperfect consensus seems to have been

reached, on the one hand, through a mixture of honest reasoning and the realisation that more information was needed by a majority willing to change their preferences in the light of it, and, on the other hand, through some strategic behaviour on the part of those already for and against the expedition, who joined the consensus as a compromise.<sup>119</sup>

Nothing happened until the envoys returned in spring 415 BCE. When they did come back, Egestan representatives came with them, and these brought a significant amount of money to pay for (part of) the Athenian expedition, and to prove that they did indeed possess the funds they had promised (Thuc. 6.8). The Athenians called an Assembly (οἱ Ἀθηναῖοι ἐκκλησίαν ποιήσαντες), heard what the envoys and the Egestan representatives had to say, had a debate, and decided. Thucydides says little about what actually happened in the debate, although we know from the account of a later Assembly meeting that Nicias had opposed the expedition. Nevertheless, there is no sign in the text, once again, of a split vote, and when the debate is resumed in the next Assembly (see below), Nicias' assumption seems to be that now everyone agrees with the expedition.<sup>120</sup> The debate seems to have led the Athenians to a detailed decision: "They voted to send sixty ships to Sicily (ἐψηφίσαντο ναῦς ἑξήκοντα πέμπειν ἐς Σικελίαν) and appointed as commanding generals, with absolute discretionary power, Alcibiades the son of Cleinias, Nicias the son of Niceratus, and Lamachus the son of Xenophanes. They were to help Egesta against Selinus; if campaigning conditions allowed, they should also assist in the re-establishment of Leontini; and in general they should take all such measures in Sicily as they judged in the best interests of the Athenians." Assuming that

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<sup>119</sup> Note that deliberative democracy theorists entertain now less demanding definitions of the consensus that is the result of democratic deliberation, which can accommodate pluralism: from forms of "meta-consensus" to a "set" interpretation of consensus, see e.g. John Dryzek and Simon Niemeyer, "Reconciling pluralism and consensus as political ideals," *American Journal of Political Science* 50 (2006) 634-649 2006; Neblo, *Deliberative*, 78-117. For the place of self-interest, bargaining and compromise in democratic deliberation see Mansbridge et al., "The place." Cf. Gutmann-Thompson, *Democracy*, 69-73.

<sup>120</sup> Kagan, *The Peace*, 166-8 (cf. Hornblower, *Volume III*, 311) believes that the brevity of Thucydides' account of the Assembly meeting does not lend itself to the conclusion that the decision was in the end consensual, but his resistance to this hypothesis (despite the clues to the contrary in the narrative, and in Nicias' and Alcibiades' speeches for the next Assembly) is due simply to the presupposition that most votes were split decisions, against which see Canevaro, "Majority."

the Athenians came to this Assembly meeting with the same preferences with which they had left the Assembly meeting of several months before, what must have happened is that the new information and the renewed deliberation in light of it moved the majority of the Athenians from a certain (vague and non-prejudicial) resistance to the idea of the expedition, to the conclusion that an expedition with well-defined objectives, and resources well-financed also by the allies, could be desirable and advantageous. Thus, they joined those that were in favour all along towards a consensus to which those that were opposed, because of the institutional pressures I have discussed in Section 2, eventually gave in, despite expressing their different positions in the debate.

This is where we stand when Thucydides' account finally becomes more detailed: when it moves to the next Assembly meeting, held four days later "to decide what provision should be made for the rapid fit-out of the ships and to vote anything further the generals might need for the expedition" (Thuc. 6.8: ἐκκλησία αὐθις ἐγίγνετο, καθ' ὅτι χρή τὴν παρασκευὴν ταῖς ναυσὶ τάχιστα γίνεσθαι, καὶ τοῖς στρατηγοῖς, εἴ του προσδέοιντο, ψηφισθῆναι ἐς τὸν ἔκπλουν). Thucydides' account of this Assembly meeting is construed by Thucydides, once again, around contrasting speeches by two top politicians: Nicias and Alcibiades.<sup>121</sup> This makes more sense in this instance than in many others, because the debate was about provisions for a military expedition, and therefore it is natural that the generals should be central to it. Thucydides, nevertheless, is explicit that they were not the only ones to talk, but many more people did (Thuc. 6.15: "Most of the Athenians who subsequently came forward..."; τῶν δὲ Ἀθηναίων παριόντες οἱ μὲν πλεῖστοι...), and that Nicias in particular was nudged and pushed in various

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<sup>121</sup> The scholarship on this debate (and specifically on the three speeches) is enormous. See e.g. Daniel Tompkins, "Stylistic characterization in Thucydides: Nicias and Alcibiades," *Yale Classical Studies* 22 (1972) 181-214; Colin Macleod, *Collected Essays* (Oxford: Oxford University Press, 1983) 68-87; Stahl, *Thucydides*, 173-89; David Smith, "Alcibiades, Athens, and the tyranny of Sicily (Thuc. 6.16)," *Greek Roman and Byzantine Studies* 49 (2009) 363-89 2009; E. M. Harris, "Nicias' illegal proposal in the debate about the Sicilian expedition (Thuc. 6.14)," *Classical Philology* 109 (2014) 66-72; 2016. See Hornblower, *Volume III*, 319-67 for a detailed discussion and more bibliography.

direction by a variety of responses, both from the crowd clamouring,<sup>122</sup> and from individual speakers. Thucydides' account is also accompanied by his thick commentary, which states as facts his own intuitions on Nicias' strategies, moves, twists and turns, and psychologizes him throughout. I shall, as far as possible, ignore Thucydides' commentary, which may or may not hit the mark and represent faithfully Nicias' preferences and ulterior motives, and concentrate on the facts as they emerge from the account.<sup>123</sup>

As we saw, Nicias had been elected to be a general in the expedition despite being against it, and we discover now (Thuc. 6.9-14) that he spoke again, in this second Assembly, against the expedition, attempting to convince the Athenians to reverse their decision. In his speech, as is reported by Thucydides, he asks the chairman of the *prytaneis* to have a new vote on the expedition,<sup>124</sup> and recognizes that this would be technically illegal, reassuring him though that nobody would bring a charge against him for it (Thuc. 6.14: εἰ ὁρρωδεῖς τὸ ἀναψηφίσαι, τὸ μὲν λύειν τοὺς νόμους μὴ μετὰ τοσῶνδ' ἂν μαρτύρων αἰτίαν σχεῖν...). What was illegal was not having a new vote on something already decided—the Assembly could change its decisions as many times as it wanted—but rather the fact that such a vote on the expedition *per se* was not in the agenda of the Assembly, and there was no preliminary decree of the Council to authorize it. The Assembly had been convened to discuss, and decide on, the provisions for the

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<sup>122</sup> For the phenomenon of clamoring and heckling (*thorybos*) see above pp. 000-00.

<sup>123</sup> The scholarship on Thucydides' "adscription of motives" is extensive, and although sometimes the tone turns apologetic (attempting to defend Thucydides' honesty from charges of deception and manipulation), in Simon Hornblower's (*Volume III*, 171) words, "we should always be wary when Thucydides gives a statement about motives." Regardless of disagreements on how concerned various scholars believe Thucydides was with gathering evidence when attempting to reconstruct motives, it has long been recognised that he normally "extracts" the deeper motives of the characters by means of conjecture based on the observation of following events. See Jacqueline de Romilly, *Histoire et raison chez Thucydide* (Paris: Belles-Lettres, 1956) 107-79; Virginia Hunter, *Thucydides: The Artful Reporter* (Toronto: Hakkert, 1973); Christoph Schneider, *Information und Absicht bei Thukydides. Untersuchung zur Motivation des Handelns* (Göttingen: Vandenhoeck und Ruprecht, 1974); H. D. Westlake, "Personal motives, aims and feelings in Thucydides," in *Studies in Thucydides and Greek History* (Bristol: Bristol Classical Press, 1989) 201-23; Emily Baragwanath, *Motivation and Narrative in Herodotus* (Oxford: Oxford University Press, 2008) 82-7; Melina Tamiolaki, "Ascribing motivation in Thucydides. Between Historical research and literary representation," in *Thucydides Between History and Literature*, eds Antonis Tsakmakis Melina Tamiolaki (Berlin: De Gruyter, 2013) 41-72.

<sup>124</sup> The *prytaneis*, on top of setting the agenda, in the fifth century also presided over Assembly meetings, before being replaced in the fourth by the *proedroi*, see above pp. 000-00.



expedition, not the expedition *per se*.<sup>125</sup> The chairman did not put the proposal to the vote, in that following the laws and correct procedure, and securing the legitimacy of the proceedings (cf. Aeschin. 3.2-6 with my discussion above pp. 000-00). But the debate for a while stayed on the issue of the opportunity of the expedition, and “Most of the Athenians who subsequently came forward spoke in favour of the expedition and against any annulment of the previous vote, but there were some who took the other side” (Thuc. 6.15: τῶν δὲ Ἀθηναίων παριόντες οἱ μὲν πλεῖστοι στρατεύειν παρήγουσιν καὶ τὰ ἐψηφισμένα μὴ λύειν, οἱ δὲ τινες καὶ ἀντέλεγον). Thucydides concentrates on Alcibiades, also a general in the expedition, the most vocal and prominent of those in favour, and (purportedly) reports his speech in full (Thuc. 6.16-18). At the end of this section of the debate there is no (illegal) vote, but “the Athenians were yet more than ever enthusiastic for the expedition” (Thuc. 6.19: οἱ δ’ Ἀθηναῖοι [...] πολλῷ μᾶλλον ἢ πρότερον ὥρμητο στρατεύειν).

What happened here can be interpreted as an example of the kind of group polarisation that can emerge from deliberation, studied particularly by Cass Sunstein.<sup>126</sup> Sunstein observes that if a group is composed of individuals with opinions on a particular issue ranging from moderate to extreme, after deliberation the group’s average position moves closer to the extreme end. Further studies have observed that group polarisation is connected to group homogeneity—it occurs when the group is composed of people whose opinions may vary on a scale, but in a single direction. To avoid group polarisation, one should avoid homogeneity.<sup>127</sup> Others have shown that group polarization can be prevented by effective facilitators.<sup>128</sup> In the case of the Assembly described by Thucydides, however, neither of these forces counteracting group

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<sup>125</sup> There has been much debate over the years on this issue, but the problem has been now conclusively solved by Harris, “Nicias.”

<sup>126</sup> See Sunstein, *Why Societies*; Sunstein, “Judgements” on deliberation and polarization.

<sup>127</sup> See e.g. James Fishkin, *When the People Speak: Deliberative Democracy and Public Consultation* (Oxford: Oxford University Press, 2009) 131-2.

<sup>128</sup> See Kimmo Grönlund, Kaisa Herne and Maija Setälä, “Does enclave deliberation polarize opinions?”, *Political Behavior* 37/4 (2015) 995-1020 for an experiment with people deliberating on immigration in Finland.

polarisation were at play, not because of a structural deficiency of the Athenian institutional setup, but rather because of the particular context. The group had not always been homogeneous—there were considerable disagreements—but it had become (to an extent) homogeneous as the effect of previous deliberation resulted in a consensual decision. The homogeneity was not a faulty feature of the deliberative setup, but rather a positive result reached through previous deliberation on the expedition. In fact, the issue of the expedition *per se* was not meant to be discussed at all at this new Assembly meeting—it was not on the agenda, and Nicias’ proposal of a new vote was illegal. It was only because the issue was brought up again that an already homogeneous Assembly became polarized and, as we shall see, ended up making the expedition significantly more extreme in its strength, costs and objectives. The effectiveness of facilitation to avoid polarisation was likewise compromised by the particular context, in which the chairman could not in fact legally put Nicias’ proposal to the vote, and therefore found himself *a priori* somewhat on the side of those in favour of the expedition, favouring rather than countering group polarisation.

When the Athenians finally came to the actual topic of that Assembly meeting—the provisions for the expedition, their enthusiasm for the expedition was considerably higher than at the beginning. Deliberation had indeed changed people’s preferences and attitudes, in accordance with a well-known mechanism in democratic deliberation: group polarisation. The result was that the expedition eventually approved was considerably bigger than what they had originally agreed upon. According to Thucydides’ account, this was partly due to Nicias himself, not simply because of his attempt to reverse the original decision (as we have seen), but also because of the development of his own positions and preferences throughout the debate. Nicias in fact spoke again (Thuc. 6.20-3), acknowledged the consensus about the expedition, and modified his preferences accordingly, arguing at this point that if the expedition were to happen—as it was clear it would—and be successful, then the resources deployed needed to

be considerably greater than what had been assumed and discussed. It is remarkable that, at the beginning of his second speech, right after he acknowledges the consensus in favour of the expedition (ἐπειδὴ πάντως ὁρῶ ὑμᾶς, ὃ Ἀθηναῖοι, ὠρμημένους στρατεύειν), Nicias (in Thucydides' speech) proceeds explicitly to reintegrate himself in that consensus by wishing "that all will be well and as *we* wish" (ξυνενέγκοι μὲν ταῦτα ὡς βουλόμεθα, ἐπὶ δὲ τῷ παρόντι ἃ γινώσκω σημανῶ). The use of the first person plural βουλόμεθα is significant in this context because it signals that Nicias has given in to the consensus—he has joined in, thus changing his preferences, and will now advise on the best course of action for the success of expedition. Thucydides once again psychologizes Nicias' second speech and interprets it a strategic move meant to achieve one of two results: "either he would deter the Athenians by his insistence on the magnitude of the enterprise, or, if the campaign was forced on him, he would ensure that he sailed with the best chance of safety" (Thuc. 6.24).

Be it as it may, deliberation had by this point had two effects: it had made the Athenians' enthusiasm for the expedition more extreme (through group polarisation), and it had highlighted, through recourse to the main expert (Nicias), that for such an expedition to succeed more resources were needed. The combined effect was to make the Athenians willing to devote more resources to the expedition than they were willing to do at the beginning of the meeting—one should remember that the size of the expedition, in its initial version approved in the previous Assembly meeting, was linked to what the Egestans were capable and willing to pay. By now, deliberation, despite (or thanks to) the effects of group polarisation, had made the Athenians pay more attention to expert opinion, realize that more was needed to secure the safety of the expedition, and made them willing to provide it: "they thought that Nicias had given good advice, and there would now be an ample margin of safety" (Thuc. 6.24: εὖ τε γὰρ παραινέσαι ἔδοξε καὶ ἀσφάλεια νῦν δὴ καὶ πολλὴ ἔσεσθαι). Once again, a consensus had solidified (καὶ ἔρως ἐνέπεσε τοῖς πᾶσιν ὁμοίως ἐκπλεῦσαι), although Thucydides notes that (in

his opinion at least) the motivations of different groups in the Assembly to support that consensus were in fact quite different: “The older men looked forward to conquest at their destination, or at least no reversal for such a large armament; the young men of military age longed for foreign travel and the sights abroad, quite confident of a safe return; and the general mass of troops saw immediate pay and the prospect of further resources to fund a lifetime of public benefits.” Ultimately, an unnamed Athenian rose and simply asked Nicias to spell out exactly how much he needed, and what kind of force he considered appropriate (Thuc. 6.25: καὶ τέλος παρελθὼν τις τῶν Ἀθηναίων καὶ παρακαλέσας τὸν Νικίαν...). Nicias was hesitant, and answered that he would have to discuss this with his fellow generals, but at the moment he envisioned “at least a hundred triremes from Athens itself (of which an agreed number would be troop-transports), and send for others from their allies; the hoplite force embarked, Athenian and allied, should be a total of at least five thousand, and more if possible; the generals would see to proportionate enlistment of the other units they would take with them—archers from home and from Crete, and slingers—and any other provision they thought appropriate” (Thuc. 6.26). A proposal along these lines was put to the vote, and the Athenians voted for it enthusiastically and, it appears, unanimously.<sup>129</sup>

A momentous decision, involving enormous human cost for all the Athenians—a decision that could have given rise to sharp divisions within the civic body, to the point of endangering the very unity and even the integrity of the community—was made consensually. The Athenians were enthusiastically behind it, and the main representative of those who had had serious doubts about it throughout—Nicias—had successfully defined its strength and was actively involved in its implementation and invested in its success.

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<sup>129</sup> Once again, the text is not explicit, but the decision is attributed to all Athenians, and the very focus of Thucydides’ account on the alleged madness and enthusiasm for the invasion that took hold of the Athenians makes sense only if the final decision is enthusiastically and consensually made. See above pp. 000-00.

## Conclusions

It is a very dubious endeavour to decide whether the decision reached by the Athenians was in fact a bad decision. Its effects were catastrophic, there is no doubt about that. Yet it is methodologically problematic to judge the quality of a decision on the basis of its effects, as much as it is problematic to identify the precise reasons of the Athenian failure—was it a doomed enterprise in any case? did they need more troops? more limited objectives? was the disaster to do rather with the later decision to depose Alcibiades, the most talented of the Athenian commanders, because of the scandal of the Herms?<sup>130</sup> Other scholars have investigated in recent years the epistemic credentials of Athenian democracy, and this is not what I am concerned with here.<sup>131</sup> My choice of the debate on the Sicilian expedition as my main case study is precisely aimed at highlighting the quality of Athenian deliberation quite apart from the absolute effectiveness (and direct outcomes) of the decisions taken.<sup>132</sup> What I am concerned with is its ability to produce other goods that are normally associated with deliberative democracy: legitimacy and the preservation of the integrity of the community.

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<sup>130</sup> Harris, *Rule of Law*, 305-44 has for instance forcefully argued that the problem was not the Assembly, but the courts. It was the courts that drove Alcibiades into exile and deprived the expedition of its most talented leader. It was also fear of the courts that drove Nicias to delay the retreat of the expedition and turned a minor defeat into a major disaster. For a detailed yet accessible account of Alcibiades life and career, see P. J. Rhodes, *Alcibiades: Athenian Playboy, General and Traitor* (Barnsley: Pen & Sword Military, 2011).

<sup>131</sup> See in particular Ober, *Democracy*; Ober, *The Rise*. See more generally for modern attempts to justify deliberative democracy on epistemic grounds David Estlund (2008); Hélène Landemore, *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many* (Princeton: Princeton University Press, 2013); “Beyond the fact of disagreement? The epistemic turn in deliberative democracy,” *Journal of Social Epistemology* 31/3 (2017) 277-95; Jack Knight, Hélène Landemore, Nadia Urbinati and Daniel Viehoff, “Roundtable on epistemic democracy and its critics,” *Critical Review* 28/2 (2016) 137-170.

<sup>132</sup> As Fishkin-Mansbridge, “Introduction,” 14-15 observe: “if we had a scientific theory about whose decision-making competencies and methods would yield optimal policy results and rational problem solutions (as was the claim of ‘scientific’ state socialism), the problem of deciding how to decide would also evaporate and the one best way of running a country and its economy would reveal itself beyond any doubt”. But we do not. Therefore, at best, political procedures can be consistent with widely shared normative premises of fairness, and policy outcomes can be regrettable—or not.” For a similar (reductive) position on the normative potential of epistemic criteria in assessing and developing political institutions see also Jon Elster, *Securities Against Misrule. Juries, Assemblies, Elections* (Cambridge: Cambridge University Press, 2013) 281 (cf. 2, 12) and *passim*, who recommends that “when we have done all we can to remove distorting factors from the decision-making process, we should simply let the chips fall where they may and accept the outcome, whatever it is.”

What emerges from my analysis is that, despite Thucydides' attempt to paint the Athenians' behaviour as irrational, emotional and unjustifiable, their decision in fact emerged through protracted democratic deliberation in the institutions of the state, through engagement (however imperfect) in rational argument and with everyone's positions. Most Athenians (but not all Athenians, of course) quite clearly did not have fixed preferences at the beginning of the process (although they had vague and changeable preferences) but were open to honest and informed deliberation about ends and means, and this was enabled by the institutional architecture of the Assembly. Their positions and preferences changed repeatedly following new information as well as deliberation—many changed their minds, more than once. In two instances—at the beginning, before deciding on the expedition, and at the end, before deciding on the resources to devote to it—they sensibly agreed that they needed more first-hand or expert information and gathered it.

They also quite clearly followed all the proper procedures, at all points, to the letter. The democratic deliberative process that I have detailed was enabled and encouraged by the institutional setup (described in Section 1). The only procedural hiccup was Nicias' obstinacy and his attempt to reverse the decision of the previous Assembly meeting, despite the fact that a new decision on the expedition *per se* was not on the agenda of the new meeting. He was listened to, and so were others that espoused his arguments and his positions—his right to express those positions was not infringed, but encouraged, and he was not ignored, but actually had an effect on the final decision—nothing in this story invalidates the normative claims made for instance by Demosthenes about the need for everyone to be heard in order for decisions to be legitimate (discussed in Section 2). The effect of this intervention on the final decision was not, however, what he had hoped for. On the one hand, the chairman did not put his proposal to the vote, because doing so would have broken the law. On the other, his attempt reopened a debate that should have been closed, within a now homogeneous Assembly, which led to group

polarisation, to more extreme positions, and to higher enthusiasm for the expedition. Even then, however, he did not call himself out of the debate, and was not shouted down. As a result of the evolution of the debate, he updated his preferences and positions (and we should assume that others that had been sharing his line also did), and argued for a more substantial military effort, to ensure the safety of the expedition. Far from being disqualified for his previous opposition to the expedition, not only was his role as one of the generals never questioned, but the Athenians listened to his arguments, and were persuaded by them.

The deliberative process overall led to the creation of an enthusiastic consensus, however impure (because it included plenty of compromise and bargaining). If we compare it to the ideals of many modern theories of deliberative democracy, this process of deliberation of course turns out to be extremely imperfect: it was certainly not fully “rational”, nor was the information gathered satisfactory—there were even deliberate efforts by some to misinform the Athenians (for instance in Alcibiades’s description of Syracuse at Thuc. 6.17.2-4). But it also incorporated, as we have seen, many of the main features of these normative ideals. It did not produce a good “outcome”, either on epistemic grounds or on the basis of its results, but, as I have noted, this is not what interests me here. But it did produce unquestioned legitimacy for the final decision which was grounded in open debate and the involvement (potential or actual) of all participants and positions. And, therefore, it produced a remarkable unity of effort in its implementation. The citizen body was not divided as a result of such a momentous, risky and potentially divisive decision, and the constitutional integrity of the *polis* was intact.

Whatever the quality of the decisions and their results, the presence in Athens of a strong deliberative ethos and of strong deliberative institutions was able to produce a number of goods in terms of unity, constitutional integrity, inclusion (of adult male citizens only, of course), fairness and particularly legitimacy for the decision and the political system that produced it.

The contrast with the modern forms of plebiscitary direct democracy (used to remedy the crisis of legitimacy of representative democracy) with which I started this article is stark indeed, as these are precisely the features lacking in such plebiscitary forms, as the case of Brexit, as many others, has made clear.

To conclude, I should stress that in this article I have concentrated on particular instances of democratic deliberation and decision-making, and in particular on the Assembly, to show that Athenian democracy is in fact a particularly rich and rewarding test case for the study of deliberative forms of democracy. But, already from the examples I have provided, it is clear that the complexity and sophistication of the Greek democratic institutions went beyond the rules of the Assembly. Decisions were made through the interplay of a variety of institutional settings, some, like the Athenian Assembly, involving over 6,000 citizens engaged in deliberation, others, like the Council of 500, investing in the creation of knowledge and expertise of a rather large mini-public, randomly selected and working full time on public policy for a year. These institutions practiced thorough deliberation and strived to achieve consensus, reinforcing one another's deliberation through a variety of forms of delegation linked to particular kinds of expertise and prerogatives. They also enlisted, for the purposes of the system, the deliberative potential of informal settings such as the *agora* and even the 'barber shop' (note that proposals for new laws had to be posted in a public blackboard in the *agora*, for all Athenians to see them and discuss them in advance of formal deliberation).<sup>133</sup> They were supplemented by other formal institutions, such as the lawcourts in charge of the "constitutional" judicial review of new laws and decrees (when someone attacked them as 'illegal' or 'unsuitable'), whose procedure was instead very 'adversarial' and excluded debate

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<sup>133</sup> On these see Robert Sobak, "Sokrates among the shoemakers," *Hesperia* 84 (2015) 669–712. For the importance of studying deliberation in 'everyday talk' as part of a deliberative system see Jane Mansbridge, "Everyday talk and the deliberative system," in *Deliberative Politics*, ed. Stephen Macedo (Oxford: Oxford University Press, 1999) 211–42.



and deliberation.<sup>134</sup> These institutions, although not deliberative *per se*, contributed to the deliberative dimension of the system, and to its legitimacy. The deliberative skills of the Athenian citizens were moreover trained and exercised in a number of formal and less formal institutional settings, from the smaller subdivisions of the city (the demes) to private associations, whose rules and practices of decision-making were identical to those found in the Assembly (they even enacted inscribed decrees with procedures and formulas identical to those of the Assembly). Democratic deliberation was the standard form of decision-making at all levels, wherever the Athenians were called to act collectively, not just in the Council and in the Assembly. Once we recognise the centrality of deliberative democratic forms to the Athenian political system, Athens can provide an inexhaustible source of insights and a thoroughly documented case study for democratic deliberation and the workings of deliberative systems on a mass scale.<sup>135</sup>

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<sup>134</sup> On these, see Canevaro, “Making”; Canevaro, “Majority,” 000-00 on the courts’ “majoritarian” setup.

<sup>135</sup> For modern scholarship on the notion of “deliberative system,” see above p. 000-00 n. 56. See now Esu, *Divided Power*, for institutional mixing and interaction in the Greek city-states. Ober, *Democracy*, is notable in this respect because, from the point of view of epistemic democracy, it follows the production of knowledge as it unfolds in a variety of formal and informal institutional settings; see also Macé *Savoir public*. chs. 14-20.